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Security classification -- Côte de sécurité  
**SOLICITOR-CLIENT PRIVILEGE**

File number -- Numéro de dossier  
**14-595202**

Date  
August 17, 2009 (revised February 26, 2010)

Telephone/FAX -- Téléphone/Télécopieur  
(416) 973-3688 / (416) 954-8982

**MEMORANDUM / NOTE DE SERVICE**

**TO / DEST:** Marie Bourry, Corporate Team Leader and Senior Counsel, CIC  
Louise Haberl, Legal Counsel, CIC

**FROM / ORIG:** Urszula Kaczmarczyk, General Counsel  
Immigration Law Section, ORO – Toronto

**SUBJECT / OBJET:** [REDACTED]

**Comments/Remarques**

---

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- 3 -



**Urszula Kaczmarczyk**

cc: Mary Matthews

- 4 -

**Nur Muhammed-Ally  
Eleanor Elstub**

000004



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s.23

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Security classification – Côte de sécurité

File number -- Numéro de dossier

**14-595202**

Date

**2009-08-19 (revised 2010-03-02)**

Telephone/FAX – Téléphone/Télécopieur

**(416) 952-4461 / (416) 954-8982**

**MEMO TO FILE / NOTE DE DOSSIER**

FROM / ORIG:

Eleanor Elstub & Nur Muhammed-Ally, Counsel  
Immigration Law Section

SUBJECT / OBJET:

Comments/Remarques

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s.23

**From:** Muhammed-Ally, Nur  
**To:** Sinclair, Gail  
**Subject:** RE: [REDACTED]  
**Date:** Thursday, January 21, 2010 5:44:22 PM

---

Thank you.

---

**From:** Sinclair, Gail  
**Sent:** January 21, 2010 2:20 PM  
**To:** Elstub, Eleanor; Muhammed-Ally, Nur; Morris, Michael  
**Subject:** FW: [REDACTED]

Timely! Just in. Gail

---

**From:** Brewster, Michelle  
**Sent:** January 21, 2010 2:15 PM  
**To:** Sinclair, Gail  
**Cc:** Priest, David; Lafranchise, Amber; Sandler, Kiara  
**Subject:** RE: [REDACTED]

Further to your email request below, I report the following:

A large rectangular area of the page is completely redacted with a solid gray color.

Regards,

*Michelle Brewster*  
Paralegal/Parajuriste  
Business Law Section/Section du droit des affaires  
Department of Justice/Ministère de la Justice  
Ontario Regional Office/Bureau régional de l'Ontario  
The Exchange Tower/La tour exchange  
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Toronto, ON M5X 1K6  
tel.: (416) 973-5723  
fax: (416) 973-0809  
E-mail: michelle.brewster@justice.gc.ca

---

**From:** Priest, David

s.19(1)

s.23

**Sent:** January 19, 2010 9:32 AM  
**To:** Brewster, Michelle  
**Cc:** Sancler, Kiara  
**Subject:** FW: [REDACTED]

***michelle***

[REDACTED] but can you possibly help with this?  
you will be rewarded with great praise (see below)  
***david***

---

**From:** Sinclair, Gail  
**Sent:** January 19, 2010 8:26 AM  
**To:** Priest, David  
**Subject:** [REDACTED]

Greetings of the new Year to you, David. [REDACTED]

Many thanks for your help with this matter. Gail

Gail Sinclair  
General Counsel / Avocate générale  
Government Law Services Section/  
Section des services du droit gouvernemental  
Department of Justice / Ministère de la Justice Canada  
Ontario Regional Office / Bureau régional de l'Ontario  
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**From:** Haberl, Louise  
**To:** Kaczmarczyk, Urszula; Matthews, Mary; JUS; Muhammed-Ally, Nur  
**Subject:** FW: Daily Wrap/Sommaire Quotidien: 2010-02-22 -- CAF-related articles  
**Date:** Monday, February 22, 2010 10:32:57 AM

---

**HUMAN RIGHTS:** Joe Frissen reported in the *Globe and Mail* (Page A4) that the Conservative government will not shut down Rights & Democracy, despite speculation to that effect in recent weeks, according to a source. Foreign Affairs Minister Lawrence Cannon pledged a week ago to intervene at the arm's-length agency, which is funded with more than \$10-million in public money, but still has not made clear his plans. He is expected to do so as early as Monday. A government source said the minister will continue to support the Montreal-based group, which promotes human rights and democracy abroad. The agency's interim president, Jacques Gauthier, said the government is spending time and energy interviewing prospective candidates for the presidency and appears intent on seeing the agency stabilized. The board voted this week to close the Geneva office of Rights & Democracy. Opposition parties have called for a parliamentary inquiry, saying the agency, once a source of pride, has become a source of embarrassment for Canada. (*Globe and Mail*, A4, [http://www.infomedia.gc.ca/cic/articles/unrestricted/2010/02/cic20102132467742\\_68.htm](http://www.infomedia.gc.ca/cic/articles/unrestricted/2010/02/cic20102132467742_68.htm), Feb, 20, 2010)

See also:

'Rights agency under microscope' (*Toronto Star*, A19, [http://www.infomedia.gc.ca/cic/articles/unrestricted/2010/02/cic201022915280787\\_25.htm](http://www.infomedia.gc.ca/cic/articles/unrestricted/2010/02/cic201022915280787_25.htm), Feb, 20, 2010)

'Droits et Démocratie - Ottawa s'apprête à nommer un nouveau président' (*Le Droit*, A2, [http://www.infomedia.gc.ca/cic/articles/unrestricted/2010/02/cic2010212884059\\_31.htm](http://www.infomedia.gc.ca/cic/articles/unrestricted/2010/02/cic2010212884059_31.htm), Feb. 20, 2010)

'Une réputation à laver' (*Le Droit*, 22, [http://www.infomedia.gc.ca/cic/articles/unrestricted/2010/02/cic201025614326224\\_24.htm](http://www.infomedia.gc.ca/cic/articles/unrestricted/2010/02/cic201025614326224_24.htm), Feb. 22, 2010)

'La direction lance une enquête sur des transactions financières' (*La Presse*, A25, [http://www.infomedia.gc.ca/cic/articles/unrestricted/2010/02/cic201025613950942\\_30.htm](http://www.infomedia.gc.ca/cic/articles/unrestricted/2010/02/cic201025613950942_30.htm), Feb. 20, 2010)

**Jewish survival no longer at risk (letter):** David Cohen and George Sorger, Independent Jewish Voices, wrote in the *Hamilton Spectator* (page WR6) in response to an earlier articles titled 'Jews must depend on themselves' (Letters, Feb. 12) and 'Let's not repeat Blair's 'ignorance' (Opinion, Feb. 9). They write "As Jews, we found the letter distasteful. First, the author does not speak for us or for the growing number of Jews worldwide who oppose Israeli policies and actions such as the 2008-09 Operation Cast Lead in Gaza, continuing political assassinations,etc. Secondly, about Iran. Iran does not pose an existential threat to Israel. Columnist Gwynne Dyer was right to compare the hype about an Iranian bomb to the hokum about Iraq's nonexistent "weapons of mass destruction." Finally, the letter writer asserts that "Jews can only depend on themselves for survival." This conflates Israel with Jews. Most of the world's Jews live outside Israel, and 20 per cent of Israel's population is not Jewish. Jewish survival is no longer at risk. (*Hamilton Spectator*, WR6, [http://www.infomedia.gc.ca/cic/articles/unrestricted/2010/02/cic201021153576806\\_27.htm](http://www.infomedia.gc.ca/cic/articles/unrestricted/2010/02/cic201021153576806_27.htm), Feb. 20, 2010)

Louise Haberl  
Legal Counsel | Conseillère juridique  
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**Merci de penser à votre environnement avant d'imprimer ce courriel.**  
**Thanks for thinking about the environment before printing this email.**

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**From:** Bourry, Marie (CIC)  
**To:** Muhammed-Ally, Nur; Matthews, Mary; Kaczmarczyk, Urszula; Haberl, Louise (CIC); Barry, George (CIC)  
**Cc:** Tanaka.Nana; Edlund, Dawn (CIC)  
**Subject:** FW: I  
**Date:** Monday, March 08, 2010 6:34:24 PM  
**Attachments:** [REDACTED]

Nur and Mary – [REDACTED]

Marie Bourry  
Corporate Team Leader and Senior Counsel | avocate-conseil et chef d'équipe des questions corporatives  
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**From:** Edlund.Dawn  
**Sent:** March 8, 2010 6:11 PM  
**To:** Bourry.Marie  
**Cc:** Tanaka.Nana  
**Subject:** FW: [REDACTED]

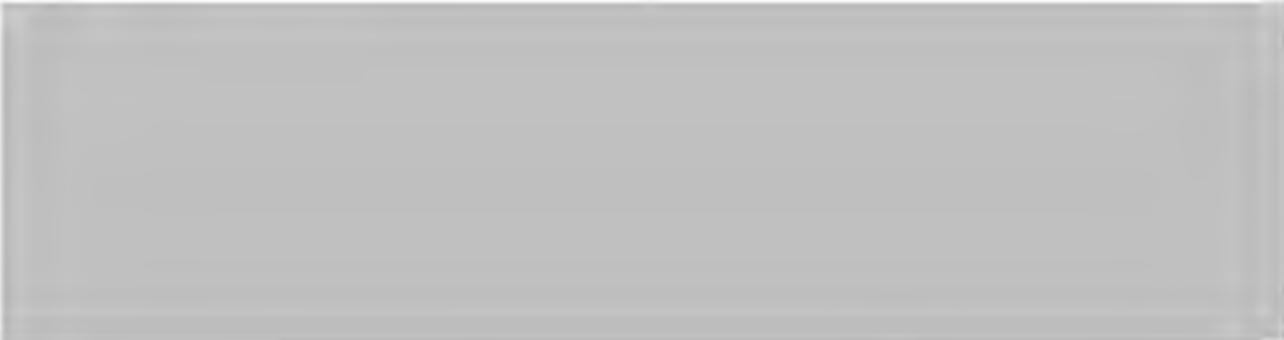
Dawn Edlund  
A/Associate Assistant Deputy Minister | Sous-ministre adjointe déléguée par intérim  
NHQ - Operations Sector | AC - Opérations  
Citizenship and Immigration Canada | Citoyenneté et Immigration Canada  
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Telephone | Téléphone 613-952-1770  
Facsimile | Télécopieur 613-957-8887

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---

**From:** Raymond.Christopher [Communications]  
**Sent:** March 8, 2010 5:30 PM  
**To:** Edlund.Dawn; Tanaka.Nana  
**Cc:** Weil.Timothy; Hickey.David; Stewart.Edison; Kellam.Douglas  
**Subject:**

Dawn:



Chris

Christopher Raymond  
Media Analyst | Analyste des médias  
NHQ - Communications | AC - Communications  
Citizenship and Immigration Canada | Citoyenneté et Immigration Canada  
365 Laurier Avenue West Ottawa ON K1A 1L1 | 365, avenue Laurier Ouest Ottawa ON K1A 1L1  
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[Christopher.Raymond@cic.gc.ca](mailto:Christopher.Raymond@cic.gc.ca)  
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**Security classification -- Côte de sécurité  
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**File number -- Numéro de dossier  
14-595202**

**Date  
July 6, 2010**

**Telephone/FAX -- Téléphone/Télécopieur**

**MEMORANDUM / NOTE DE SERVICE**

**TO / DEST:** Marie Bourry, Corporate Team Leader and Senior Counsel, Legal Services, CIC  
Louise Haberl, Legal Counsel, Legal Services, CIC

**FROM / ORIG:** Urszula Kaczmarczyk, Senior General Counsel  
Mary Matthews, Counsel  
Nur Muhammed-Ally, Counsel  
Eleanor Elstub, Counsel

**SUBJECT / OBJET:** [REDACTED]

Comments/Remarques

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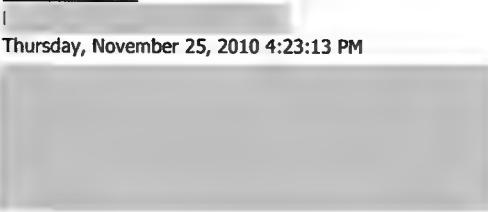
000920

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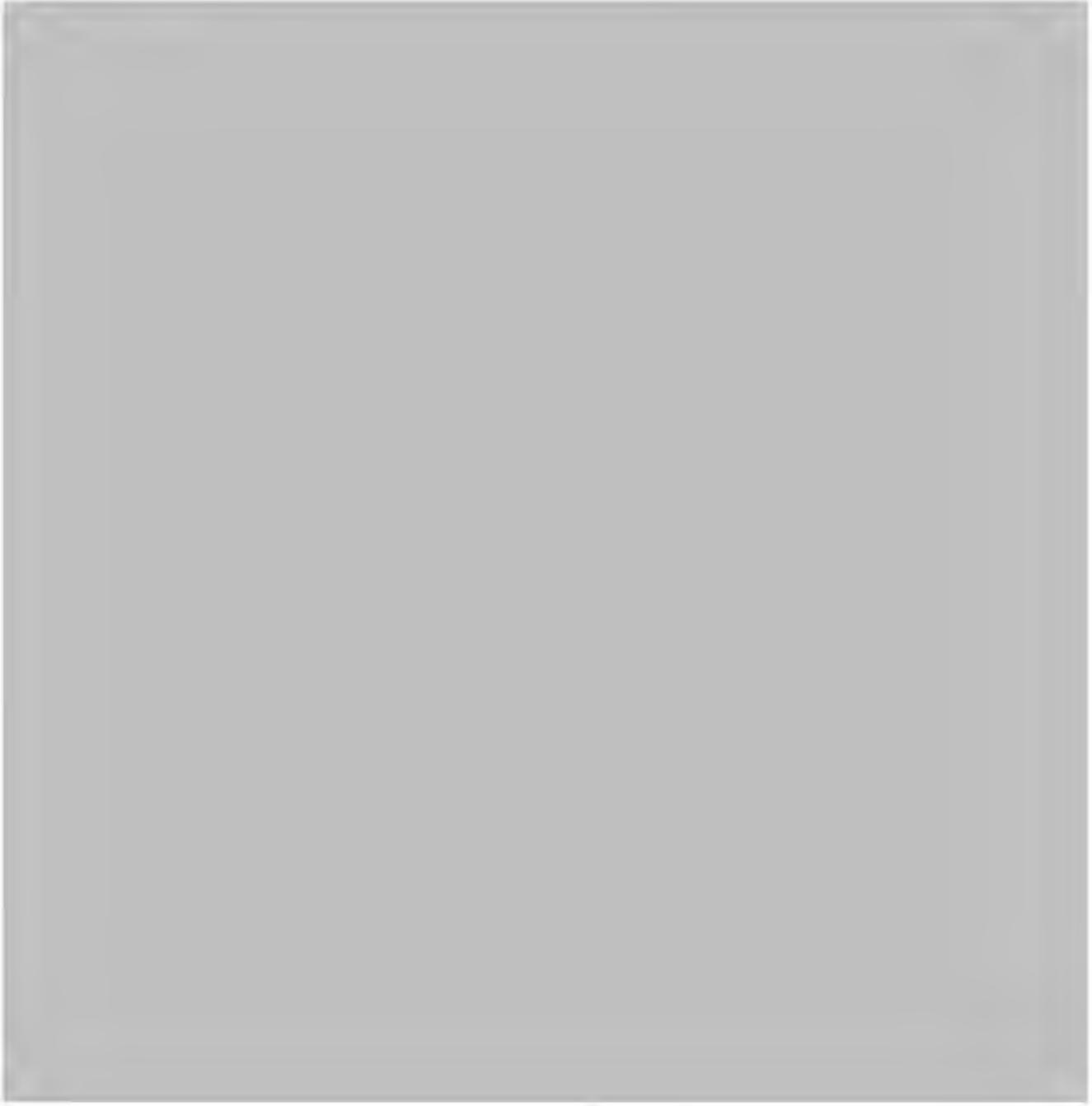
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**From:** Goswami, Monni  
**To:** Sinclair, Gail  
**Cc:** \* Toronto - CAF  
**Subject:**   
**Date:** Thursday, November 25, 2010 4:23:13 PM  
**Attachments:** 

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Dear Gail,



000941

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**From:** Elstub, Eleanor  
**To:** \* Toronto - JMMCAF  
**Subject:** FW:  
**Date:** Thursday, January 06, 2011 1:26:58 PM  
**Attachments:** [REDACTED]

Is

---

---

**From:** Griffith.Andrew [mailto:[Andrew.Griffith@cic.gc.ca](mailto:Andrew.Griffith@cic.gc.ca)]  
**Sent:** 2011-Jan-06 12:46 PM  
**To:** Elstub, Eleanor  
**Cc:** Haberl, Louise (CIC); Bourry, Marie (CIC); Cistera.Luigia; Couture.Sophie  
**Subject:** FW: [REDACTED]

Eleanor,



Andrew

Andrew Griffith  
DG - Citizenship and Multiculturalism | DG- Citoyenneté et multiculturalisme  
NHQ - Citizenship and Multiculturalism | AC - Citoyenneté et multiculturalisme  
Citizenship and Immigration Canada | Citoyenneté et Immigration Canada  
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Facsimile | Télécopieur 613-998-1534  
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---

**From:** Cistera.Luigia  
**Sent:** January 6, 2011 12:12 PM  
**To:** Griffith.Andrew  
**Cc:** Moise.Antoine; Bourque.Angele

**Subject:** FW: [REDACTED]

**s.23**

Please see email below. Let me know if you need anything else.  
Luigia

Luigia Cistera

Director, Partnerships and Engagement | Directrice, Partenariats et mobilisation  
NHQ - Citizenship and Multiculturalism | AC - Citoyenneté et multiculturalisme  
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Facsimile | Télécopieur 613-998-1527

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---

**From:** Couture.Sophie

**Sent:** January 6, 2011 11:04 AM

**To:** Cistera.Luigia

**Cc:** Zouzoulas.Demetra; Turpin.Emma; Couture.Sophie

**Subject:** RE: [REDACTED]

Luigia,





Let me know if you need more information.

Sophie Couture, LL.B., M.B.A.  
Manager, Global Policy Engagement | Gestionnaire, Mobilisation en matière de politiques mondiales  
Partnerships and Engagement | Partenariats et Engagement  
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Telephone | Téléphone 613-991-2087  
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---

**From:** Cistera.Luigia  
**Sent:** December 23, 2010 6:09 PM  
**To:** Couture.Sophie  
**Cc:** Zouzoulas.Demetra; Turpin.Emma  
**Subject:** FW: [REDACTED]

Sophie,

Thanks.

Luigia Cistera  
Director, Partnerships and Engagement | Directrice, Partenariats et mobilisation  
NHQ - Citizenship and Multiculturalism | AC - Citoyenneté et multiculturalisme

s.23

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**From:** Griffith.Andrew  
**Sent:** December 23, 2010 2:04 PM  
**To:** Cistera.Luigia  
**Cc:** Couture.Sophie; 'Elstub, Eleanor'; Haberl.Louise; Bourry.Marie  
**Subject:** [REDACTED]

Luigia, Eleanor,

A large, solid gray rectangular box that appears to be a redaction of a large block of text or an image.

Thanks,

Andrew

Andrew Griffith  
DG - Citizenship and Multiculturalism | DG- Citoyenneté et multiculturalisme  
NHQ - Citizenship and Multiculturalism | AC - Citoyenneté et multiculturalisme  
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**From:** [Sinclair, Gail](#)  
**To:** [\\* Toronto - CAF](#)  
**Subject:** CAF - Final report of the Canadian Parliamentary Coalition to Combat Antisemitism  
**Date:** Monday, July 11, 2011 5:37:17 PM  
**Attachments:** [CAF - CPCCA Final Report English.pdf](#)

---

Attached is the final report of the Coalition that came out last week. Note that I have not read it yet. Gail

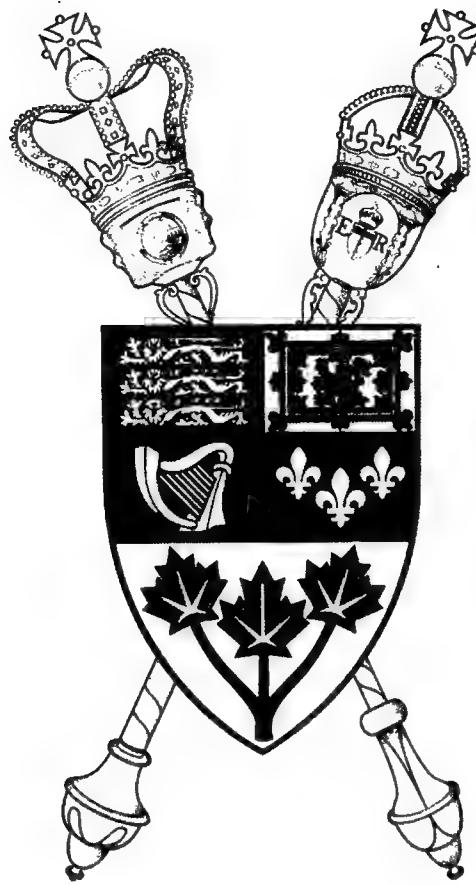
PS Thank you, Yuri, for finding it online.

---

**From:** Li, Yuri  
**Sent:** July 11, 2011 5:26 PM  
**To:** Sinclair, Gail  
**Subject:** RE: Re: CAF - news re Coalition warns of rigin anti-Semitism in the Globe and Mail on July 8, 2011

Attached is the electronic copy of the report.

Yuri



**REPORT OF THE INQUIRY PANEL**

**CANADIAN PARLIAMENTARY**

**COALITION TO COMBAT**

**ANTISEMITISM**

### Inquiry Panel

**Chair:** *Mario Silva, MP*

**Vice Chair:** *Scott Reid, MP*

*Hon. Carolyn Bennett, MP*

*Pat Martin, MP*

*Lois Brown, MP*

*Hon. Anita Neville, MP*

*Hon. Ken Dryden, MP*

*Peter Stoffer, MP*

*Rick Dykstra, MP*

*David Sweet, MP*

*Raymonde Folco, MP*

*Tim Uppal, MP*

*Hon. Hedy Fry, MP*

*Judy-Wasylycia Leis, MP*

*Randy Hoback, MP*

*Jeff Watson, MP*

*Hon. Peter Kent, MP*

### Steering Committee

**Chair:** *Scott Reid, MP*

**Vice Chair:** *Mario Silva, MP*

*Raymonde Folco, MP*

*Hon. Bob Rae, MP*

*Candice Hoeppner, MP*

*Peter Stoffer, MP*

*Pat Martin, MP*

*David Sweet, MP*

### *Ex-officio Members*

*Hon. Irwin Cotler, MP*

*Hon. Jason Kenney, MP*

### Secretariat

*Corey Lerman*

*Dan Rabkin*

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## I. INTRODUCTION

### A. The Inquiry

#### a. The Formation of the Canadian Parliamentary Coalition to Combat Antisemitism

In February 2009, parliamentarians from around the world gathered in London for the inaugural conference of the Inter-parliamentary Committee for Combating Antisemitism (ICCA). The conference brought together over 125 legislators from over 40 countries for two days of presentations and discussions on the increasing problem of antisemitism.

The conference produced "The London Declaration for Combating Antisemitism,"<sup>1</sup> which calls upon:

Parliamentarians [to] return to their legislature, Parliament or Assembly and establish inquiry scrutiny panels that are tasked with determining the existing nature and state of antisemitism in their countries and developing recommendations for government and civil society action.

Under the leadership of Citizenship and Immigration Minister Jason Kenney and current International Steering Committee Chair Professor Irwin Cotler, a delegation of 11 Canadian Members of Parliament attended the conference in London. Concerned by the evidence of a global rise in antisemitic incidents and a return to traditional antisemitic themes in international discourse, they returned with the desire to form a Canadian coalition to fight antisemitism at home in Canada.

The CPCCA (Canadian Parliamentary Coalition to Combat Antisemitism) was formed in March of 2009 and brought together 22 parliamentarians from all parties in the

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<sup>1</sup> "The London Declaration on Combating Antisemitism," Lancaster House, UK, 17 February 2009.

House of Commons (subsequently, in 2010, the members of Bloc québécois who were part of the CPCCA withdrew. However, Bloc québécois members did attend and participate in the ICCA conference in Ottawa in 2010). The CPCCA is not affiliated with the Government of Canada, any NGO, or any advocacy group. It is associated with the Inter-parliamentary Coalition to Combat Antisemitism (ICCA), the international steering committee which organized the inaugural conference in London in 2009.

The primary goals of this Inquiry were:

- To identify and define the nature of antisemitism in Canada today;
- To analyze, as far as evidence allows, the extent of the problem; and
- To make practical recommendations as to how the problem can be addressed.

In November 2010, the second Conference and Summit of the Inter-parliamentary Coalition for Combating Antisemitism was held in Ottawa, Canada at the hosting of the CPCCA. Parliamentarians and experts from over 50 countries gathered in Ottawa from November 7-9th to take part in the follow-up conference.

The Ottawa conference concluded with the unanimous adoption of the "Ottawa Protocol on Combating Antisemitism,"<sup>2</sup> which reaffirms the London Declaration and states that:

We are concerned that, since the London Conference in February 2009, there continues to be a dramatic increase in recorded antisemitic hate crimes and attacks targeting Jewish persons and property, and Jewish religious, educational and communal institutions.

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<sup>2</sup> "The Ottawa Protocol on Combating Antisemitism," Ottawa, Ontario, Canada, 9 November 2010.

We remain alarmed by ongoing state-sanctioned genocidal antisemitism and related extremist ideologies. If antisemitism is the most enduring of hatreds, and genocide is the most horrific of crimes, then the convergence of the genocidal intent embodied in antisemitic ideology is the most toxic of combinations.

In particular, the Ottawa Protocol clearly differentiates between antisemitism and legitimate criticism of Israel that is not antisemitic:

However, criticism of Israel similar to that levelled against any other country cannot be regarded as antisemitic.

Let it be clear: Criticism of Israel is not antisemitic, and saying so is wrong. But singling Israel out for selective condemnation and opprobrium – let alone denying its right to exist or seeking its destruction – is discriminatory and hateful, and not saying so is dishonest.

b. Mandate

The Canadian Parliamentary Coalition to Combat Antisemitism (CPCCA)<sup>3</sup> is a multi-party coalition of concerned parliamentarians aiming to confront and combat the Canadian manifestations of the global resurgence of antisemitism. The CPCCA recognizes that antisemitism is, by its very nature, fundamentally opposed to the foundational values of Canada, including its multicultural identity, its Charter guarantees of freedom from discrimination, as well as the values of the Universal Declaration of Human Rights.

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<sup>3</sup> The Canadian Parliamentary Coalition to Combat Antisemitism will hereafter be referred to regularly as the CPCCA.

c. Defining Antisemitism

The European Union Monitoring Centre on Racism and Xenophobia (EUMC), which monitors racism and antisemitism in EU Member States, produced a 2005 working definition of antisemitism:

Antisemitism is a certain perception of Jews, which may be expressed as hatred towards Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities. In addition, such manifestations could also target the state of Israel, conceived as a Jewish collectivity.<sup>4</sup>

Since 2005, the EUMC definition has been increasingly referenced and adopted by a variety of organizations and groups internationally, including by various courts, the Organization for Security and Co-operation in Europe, and national inquiries of parliamentarians. The UK All-Party Parliamentary Inquiry into Antisemitism recommended that this definition be adopted and promoted by governments and by law enforcement agencies.<sup>5</sup> It has been referenced in the United States Commission on Civil Rights and in submissions to the United Nations Economic and Social Council Commission on Human Rights, Sub-Commission on the Promotion and Protection of Human Rights. The definition has been translated into 32 languages by the European Forum on Antisemitism.<sup>6</sup>

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<sup>4</sup> "A Working Definition of Antisemitism," adopted by the European Union Monitoring Centre on Racism and Xenophobia (EUMC), now the European Fundamental Rights Agency, 8 January 2005.

<sup>5</sup> *Report of the All-Party Parliamentary Inquiry into Antisemitism*, a subcommittee of the All-Party Parliamentary Group Against Antisemitism, London, UK, September 2006, p. 5.

<sup>6</sup> Submissions of the American Jewish Committee, Kenneth S. Stern, pp. 3-4.

**The CPCCA supports and adopts the EUMC Working Definition of Antisemitism for the purpose of this report and recommends that the Definition be adopted and promoted by the Government of Canada and law enforcement agencies.**

The CPCCA also supports the view, expressed in the report of Britain's All-Party Parliamentary Inquiry into Antisemitism in the UK, that "any remark, insult or act the purpose or effect of which is to violate a Jewish person's dignity or create an intimidating, hostile, degrading, humiliating or offensive environment for him is antisemitic."<sup>7</sup>

**d. EUMC Working Definition of Antisemitism**

**WORKING DEFINITION OF ANTISEMITISM**

Working definition: "Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities."

In addition, such manifestations could also target the state of Israel, conceived as a Jewish collectivity. Antisemitism frequently charges Jews with conspiring to harm humanity, and it is often used to blame Jews for why things go wrong. It is expressed in speech, writing, visual forms and action, and employs sinister stereotypes and negative character traits.

Contemporary examples of antisemitism in public life, the media, schools, the workplace, and in the religious sphere could, taking into account the overall context, include, but are not limited to:

<sup>7</sup> All-Party Report, UK, p. 1.

- Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.
- Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as collective — such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.
- Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or even for acts committed by non-Jews.
- Denying the fact, scope, mechanisms (e.g. gas chambers) or intentionality of the genocide of the Jewish people at the hands of National Socialist Germany and its supporters and accomplices during World War II (the Holocaust).
- Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.
- Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.

Examples of the ways in which antisemitism manifests itself with regard to the State of Israel taking into account the overall context could include:

- Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor.
- Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation.
- Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis.
- Drawing comparisons of contemporary Israeli policy to that of the Nazis.
- Holding Jews collectively responsible for actions of the State of Israel.

However, criticism of Israel similar to that leveled against any other country cannot be regarded as antisemitic.

Antisemitic acts are criminal when they are so defined by law (for example, denial of the Holocaust or distribution of antisemitic materials in some countries).

Criminal acts are antisemitic when the targets of attacks, whether they are people or property – such as buildings, schools, places of worship and cemeteries – are selected because they are, or are perceived to be, Jewish or linked to Jews.

Antisemitic discrimination is the denial to Jews of opportunities or services available to others and is illegal in many countries.

e. Process and Establishment of Commission

The Inquiry was launched on June 2, 2009 with an open call for written submissions by the Canadian public. After receiving nearly 200 written submissions, the committee began its public hearings on November 2, 2009.

From November 2009 to January 2010, the Inquiry Panel of the CPCCA held a series of ten domestic hearings into antisemitism in Canada. The hearings were held in the buildings of the Parliament of Canada and were open to the public.

We are thankful to all those who submitted written evidence, and especially to those who also provided oral testimony. We particularly appreciate the cooperation we have received from ministers and government departments, local authorities and public bodies such as our law enforcement agencies. We have read and considered all of the written and oral material presented to us, all of which is included on the official website of the CPCCA. While we did not invite every group or individual who submitted materials to also provide oral evidence, we did hear from a broad cross section of

opinions, including oral representations from a number of groups who expressed skepticism or reservations about our work.

The Inquiry Panel recognizes that racism, in any manifestation, is fundamentally opposed to the multicultural identity of Canada and to the Canadian values of human rights and human dignity. It also recognizes that while Canada is overall an extremely tolerant society, many minority groups in Canada have experienced, to a greater or lesser degree, being the targets of racist/discriminatory incidents or discourse. In every instance, such expressions of hatred are damaging to the communities that are targeted and to society more generally.

But to recognize that there are multiple existing expressions of hatred in society is not to say that they are all the same in their source, scope, or manifestation. In short, this Panel views antisemitism as a distinguishable, sophisticated, and virulent form of hate, that necessitates being studied as its own phenomenon.

Antisemitism is the oldest and most enduring form of hatred and has caused “catastrophic suffering, not only for Jews, but for all those who get enveloped in that virus of antisemitism” as it has mutated over time.<sup>8</sup> Yet, as discussed in the UK All-Party Report, the “high degree of integration and success” of the Jewish community means that Jewish people experience a different model of prejudice and racism than other communities. “Antisemitism is not always recognized for what [it] is, and Jews are not always recognized as victims of racism.”<sup>9</sup>

Antisemitism is a distinguishable hate in terms of its global dimensions. The problem is increasingly widespread, affecting societies and individuals around the world. Jews are currently the target of a “globalized,” form of antisemitism,<sup>10</sup> to use the words of Dr.

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<sup>8</sup> Testimony of the Honourable Irwin Cotler, November 2, 2009, p. 20.

<sup>9</sup> All-Party Report, UK, p. 5.

<sup>10</sup> Testimony of Dr. Charles Small, November 2, 2009, p. 16.

Charles Small, Director of the Yale Institute for the Inter-disciplinary Study of Antisemitism. The U.S. Department of State's Report on Global Antisemitism<sup>11</sup> has noted that the "disturbing rise of antisemitic intimidation and incidents is widespread throughout Europe," and noted "worrying expressions" of antisemitism outside of Europe and the Middle East, including in New Zealand, Argentina and in Canada. The Report noted that the attacks on individual Jews and on Jewish property that occurred in the immediate post World War II period had decreased over time and had become primarily linked to vandalism and criminal activity. However:

In recent years, incidents have been more targeted in nature with perpetrators appearing to have the specific intent to attack Jews and Judaism. These attacks have disrupted the sense of safety and well being of Jewish communities.

The "globalized nature" of antisemitism also speaks to the interconnectedness of incidents occurring internationally and the occurrence of antisemitic incidents domestically. Spikes in antisemitic incidents are often linked to events in the Middle East.<sup>12</sup>

Antisemitism is also distinguishable in the manner in which it manifests itself and morphs from localized and sporadic incidents to ideological, political, legalized and ultimately genocidal expressions of hatred. Traditional group libels – the attribution of negative characteristics to Jews - such as the blood libel, the economic libel, and racism libel, continue to have traction. For example, Jews are currently being alleged to have been behind the 9/11 terrorist attacks and Jewish doctors are being blamed for deliberately infecting Palestinians and others with the AIDS virus.

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<sup>11</sup> Released by the Bureau of Democracy, Human Rights, and Labor. Available online: <http://www.state.gov/g/drl/rls/40258.htm>.

<sup>12</sup> See testimony of the Right Honourable Denis MacShane, November 2, 2009, p. 10 and testimony of Dr. Gregg Rickman, November 2, 2009, p. 15.

Importantly, as will be discussed in further detail in this report, the nature of contemporary antisemitism in Canadian society is complex, multi-faceted, and emanates from multiple sources. Whereas “traditional” antisemitism is a form of hatred and discrimination aimed at Jews as a race, a new manifestation is increasingly taking hold in Canadian society and internationally, where antisemitism, ironically, “marches ... under the protective cover of the United Nations, under the banner of human rights, and under the struggle against racism itself.”<sup>13</sup> That is, antisemitism is increasingly focused on the role of Israel in the conflict between Israelis and Palestinians in the Middle East. Jews are seen as supporters of Israel and are seen by some, who do not distinguish between Israelis and Jews, as a legitimate target in the fight to establish a Palestinian state or to eliminate the State of Israel.

In the most vile and clear expressions of the new antisemitism, Jewish support for Israel and the notion of Israel as a criminal state is used to further traditional antisemitic themes. These manifestations use the discourse of politics but, in fact, constitute masked hatred. This can clearly be seen as traditional antisemitic libels are being attached to the State of Israel and to Jews. Recent libels include an article in Sweden’s popular newspaper *Aftonbladet*, alleging that Israelis abducted Palestinians in a conspiracy with American rabbis, killing them to steal their organs for transplant.<sup>14</sup> This refashioning of the traditional “blood libel” was also seen in a Canadian Islamic community newspaper in British Columbia, which posted on its website an article headlined “Ukrainian kids, new victims of Israeli organ theft.”<sup>15</sup>

A similar new manifestation of traditional antisemitic behaviour can be seen on campuses where Jewish students are ridiculed and intimidated for any deemed support

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<sup>13</sup> Testimony of the Honourable Irwin Cotler, November 2, 2009, p. 20.

<sup>14</sup> Testimony of the Right Honourable Denis MacShane, November 2, 2009, p. 9.

<sup>15</sup> Available online: <http://network.nationalpost.com/np/blogs/holy-post/archive/2010/01/08/muslim-paper-condemned-for-blood-libel.aspx>.

for the State of Israel, which is claimed by its enemies to have no right to exist. This manifestation is also exemplified by individuals and governments who call for the destruction of the State of Israel and its inhabitants.

While traditional antisemitic acts, such as desecration of Jewish gravestones and firebombing of Jewish schools are easy to identify, identifying the point at which anti-Israel discourse becomes antisemitism is not always clear. This makes it a very sophisticated and insidious form of discrimination, meriting closer examination. As stated by the Right Honourable Denis MacShane:

The old anti-Semitism, for me, is the classic millennium-old Jew hate that ends up in pogroms and ultimately the Holocaust, the obligatory expulsion or fleeing of Jews because they face physical violence and death. The new anti-Semitism seeks to belittle the status and identity of Jews within democratic communities, treat them as less than 100% full-class citizens, and oblige them to take up positions, particularly vis-à-vis Israel, they are uncomfortable with, which brings back into play the pernicious notion of the cabal or the secret lobby that gave rise to the "Protocols of the Elders of Zion", which now reappears in the idea of the Jewish lobby that controls capital and state policy.<sup>16</sup>

In the words of Toronto-based writer Navid Khavari, antisemitism "has destabilizing and hurtfully harmful effects on all Canadians."<sup>17</sup> The Inquiry Panel notes that while antisemitism by definition singles out Jews, its existence presupposes willingness among at least some members of society to isolate and shun or attack other groups. For this reason, even though opposing antisemitism is important in its own right, we regard the ongoing existence and international resurgence of antisemitism as a sign that hatred of all types is far from extinct.

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<sup>16</sup> Testimony of the Right Honourable Denis MacShane, November 2, 2009, p. 9.

<sup>17</sup> Testimony of Navid Khavari, November 23, 2009, p. 5.

Furthermore, hate breeds hate. Thus, while it may begin with the Jews, the group-based hatred and stereotyping that we call antisemitism is unlikely to end with Jews. In the words of Reverend Majed El Shafie, an Egyptian Christian, and founder of One Free World International:

If we let this happen here in Canada, and if we let antisemitism rise in Canada, we will be next. The Bahá'ís will be next, the Ahmadis will be next, the Christians will be next.<sup>18</sup>

The Inquiry Panel also heard and received submissions from those who expressed concerns for the importance of free dialogue. For example, in her written testimony, Razia Jaffer, President of the Canadian Council of Muslim Women, asserted that "silencing such a dialogue is an injustice and an infringement on academic freedom, freedom of speech, association and belief."<sup>19</sup> Similarly, a Jewish organization, albeit outside of the mainstream, expressed analogous unease about suppressing "legitimate concerns surrounding Israeli government policies that may seem to impinge upon human rights," suggesting that this would undermine the very democracy that Israel, a multi-ethnic state, claims for itself so proudly."<sup>20</sup>

As stated previously, the Inquiry Panel believes that criticism of Israel is not, by definition, antisemitic. Israel is accountable, just like any other state, for its acts in accordance with its obligations under international regimes dealing with human rights and international humanitarian law.

As well, there were a minority of groups and individuals who expressed views through submissions to the Inquiry and in public media, objecting to the very existence of this

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<sup>18</sup> Testimony of Reverend Majed El Shafie, November 30, 2009, p. 3.

<sup>19</sup> Submissions of Razia Jaffer, President, Canadian Council of Muslim Women, August 2009.

<sup>20</sup> Submissions of David Abramowitz and Lyn Centre, Co-Presidents, United Jewish People's Order Canada.

Inquiry. A number of individuals accused the Inquiry, even before a single witness had been called, of having been established with the ulterior motive of criminalizing criticism of Israel.<sup>21</sup> The Inquiry Panel finds that at best these attempts to discredit and silence preemptively an inquiry into the nature and extent of one of the most enduring and pernicious forms of hatred represents a misunderstanding of the nature of the problem and its modern complexity. At worst, these attacks on the Inquiry are a worrying example of the wilful attempt by a small minority to use sleight of hand techniques to justify and adhere to their own hateful agenda.

## II. BACKGROUND

### A. Traditional Antisemitism

The Inquiry Panel heard evidence about how antisemitism, the oldest existing hatred, has changed through the years. As one witness stated, "Like other enduring infections, it survives by successfully mutating over time."<sup>22</sup>

Early Christian antisemitism was a form of religious intolerance that was based on the view that Jews had rejected Jesus and were complicit in his death. This perception "has been the most powerful justification for antisemitic persecution for two thousand years."<sup>23</sup> In the Middle Ages, Christians believed Jews to be children of the devil and allegations that Jews performed ritual murder led to "trials, burnings, torture, expulsion, and massacres."<sup>24</sup> By the twelfth century, the blood libel – accusing Jews of

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<sup>21</sup> From the petition of Independent Jewish Voices concerning the CPCCA, "The CPCCA's goal is to criminalize criticism of Israel and Zionism, not to hold impartial hearings," <http://ijvcanada.org/sign-signez-petition-cpcca-hearings/>

<sup>22</sup> Testimony of Mark Freiman, December 7, 2009, p. 2.

<sup>23</sup> Kenneth L. Marcus, "Jurisprudence of the New Antisemitism," 44 Wake Forest L. Rev. 371, p. 11.

<sup>24</sup> Kenneth L. Marcus, "Jurisprudence of the New Antisemitism," 44 Wake Forest L. Rev. 371, p. 11.

slaughtering Christian children and consuming their blood for religious purposes – took hold.

In the nineteenth century, there was a shift from religious antisemitism to a form of racialist antisemitism. This form of antisemitism viewed Jews as a distinct and genetically inferior race. This was the form of antisemitism, of course, that largely fuelled Nazi policy and Adolf Hitler's "final solution," which resulted in the murders of six million Jews in the Holocaust.

While traditional racialist forms of antisemitism are far from extinct, as the worrying recent record of such incidents demonstrates, the Inquiry Panel has learned that the main and growing problem in Canada is what has been termed the "new antisemitism," a form of political prejudice that finds expression in Islamism and certain radical leftist ideologies and discourse,<sup>25</sup> which may be influenced by traditional antisemitic themes.

In line with these developments, the EUMC definition recognizes that Holocaust denial, holding Jews collectively responsible for Israeli policy, denying Jewish people their right to self-determination, the application of double standards by requiring behaviour not expected or demanded of other democratic nations, and using symbols and images associated with traditional antisemitism, are all forms of antisemitism.

The new antisemitism is "the form of this bigotry that cloaks itself in the terms of a political discourse, directing towards Israel or Zionism the particular stereotypes and defamations traditionally directed at the Jewish people."<sup>26</sup> As explained by Ruth Klein, National Director of the League for Human Rights of B'nai Brith Canada:

In Canada, these dual themes of antisemitism and anti-Zionism run parallel and are used interchangeably, as has been mentioned before. We see this in the

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<sup>25</sup> Testimony of Professor Alvin Rosenfeld, November 16, 2009, p. 11.

<sup>26</sup> Kenneth L. Marcus, "Jurisprudence of the New Antisemitism," 44 Wake Forest L. Rev. 371, p. 4.

sharing of rhetoric and images between the extreme left and the extreme right. The extreme left will borrow Holocaust imagery and age-old Jewish stereotypes to attack Israel, while the neo-Nazis use the Middle East conflict as a justification for furthering their anti-Jewish ideology. So whereas before the talk was of Jewish control of the media and Jewish control of the government and the financial world, the terminology now has changed. It's Israeli control. It's Zionist control.<sup>27</sup>

The Inquiry Panel heard evidence of traditional antisemitic themes being applied to the State of Israel and its supporters. As explained by Professor Wistrich:

Much of the anti-Zionist/antisemitic discourse today is a dehumanizing discourse. It is one that goes to the very character and essence of the Jews as a treacherous, devious people embarked upon domination of the Middle East, domination of the whole world, controlling the banks, the media, the United States—at least until the appearance of President Obama—controlling the White House, Congress, and the Pentagon. A global enemy. That is Nazi language. The description of the Jews/Zionists/Israel as the enemy of humanity is a dehumanizing discourse, and it is one that prepares the road. That's why I called it a "lethal obsession." It definitely prepares the road to genocide.<sup>28</sup>

To take one example, the depiction of Jews as poisoners, which led to the allegations that they were responsible for the Black Death that swept Europe in the 14<sup>th</sup> century, has been revived in a number of new contemporary manifestations. Jews have been accused of creating and spreading the AIDS virus.<sup>29</sup> As recently as 2009, there was an international blood libel accusing Israelis of harvesting Palestinian organs. While it was

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<sup>27</sup> Testimony of Ruth Klein, November 30, 2009, p. 16.

<sup>28</sup> Testimony of Professor Robert S. Wistrich, November 23, 2009, p. 18.

<sup>29</sup> Submissions of the Canadian Jewish Congress, August 20, 2009, p. 2.

widely condemned by society at large, it was published in a Canadian Islamic community paper, *Al Ameen*, which reported that 25,000 Ukrainian children were kidnapped to have their organs harvested by Israeli soldiers.<sup>30</sup> The Inquiry Panel is encouraged by the widespread condemnation and subsequent removal of this article from *Al Ameen*'s website, but is nevertheless concerned that such grotesque and antisemitic accusations are still being made in Canada today.

The Inquiry Panel reiterates what is stated in the EUMC Working Definition – namely that criticism of Israel that is similar to the type of criticism levelled against any other country cannot be regarded as antisemitic, but using traditionally antisemitic themes and holding Jews collectively responsible for actions of the State of Israel crosses the line into discriminatory discourse.

## B. Contemporary Antisemitism

The Panel Inquiry learned that a significant source of antisemitism in Canada is found on the radical left of the political spectrum. As noted by the UK All-Party Inquiry, since Israel took control of the disputed territories of Judea and Samaria/West Bank, Gaza and the Golan Heights after a defensive war initiated by numerous Arab and Islamic nations, there has been a shift in sympathy away from Israel. Israel and Jews are increasingly viewed as part of the “establishment” and Arabs and Palestinians are seen as the oppressed.<sup>31</sup> Criticism of Israel was further fuelled by its counter-terrorism operations in response to the second Palestinian Intifada and by the American-led intervention in Iraq in 2003.

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<sup>30</sup> Terry Glavin, “The Organ-Harvesting Scare: A Mutant Offspring of Anti-Zionism & Classic Antisemitism,” *Chronicles & Dissent*, January 5, 2010.

<sup>31</sup> Testimony of Dr. Fred Lowy, December 24, 2009, p. 3.

As explained by the Right Honourable Denis MacShane, UK parliamentarian and Chair of the UK All-Party Inquiry into Antisemitism, the left increasingly views the Palestinian struggle as the “most legitimate and noble struggle of the underdog.”<sup>32</sup> This view, as he notes, is “perfectly legitimate,” but it may also, as the Inquiry Panel has heard, “trip over into antisemitism.”<sup>33</sup>

The Inquiry Panel heard evidence that this type of antisemitism is often seen on campuses across Canada,<sup>34</sup> where traditional antisemitic symbols and the targeting of Jewish students often occurs in the context of campus demonstrations and protests. In one example, in 2009, Jewish students at York University were barricaded inside the Jewish Students’ Association lounge by a mob of protesters. During Israeli Apartheid Week in 2009, a poster advertising the event depicted the Jewish State collectively in the role of child killer, with a gunship helicopter targeting a toddler holding a teddy bear. This, as noted by Ruth Klein of B’nai Brith Canada, “is the epitome of the modern-day blood libel.”<sup>35</sup>

There are also examples of groups of Jewish students being targeted for negative treatment due to their mere association with Israel. For example, the Inquiry Panel heard testimony about OPIRG, a Student Federation in Ottawa that controls campus funding, which was said to have refused to support an event put on by Hillel, a Jewish student organization. Hillel was bringing in a Ugandan Jewish leader to discuss topics such as sustainable development initiatives and education among Christians, Muslims and Jews in Uganda – a topic unrelated to Israel or Middle East politics. OPIRG, while

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<sup>32</sup> Testimony of the Right Honourable Denis MacShane, November 2, 2009, p. 10.

<sup>33</sup> Testimony of the Right Honourable Denis MacShane, November 2, 2009, p. 10.

<sup>34</sup> Testimony of Dr. Fred Lowy, December 24, 2009, p. 3.

<sup>35</sup> Submissions of Ruth Klein, B’nai Brith Canada, August 2009, p. 3.

acknowledging that this event was interesting, refused to help promote the event because of Hillel's purported support for Israel.<sup>36</sup>

As discussed by the UK All-Party Report, it is often difficult to define the boundaries between anti-Zionism and antisemitism. Many on the left are committed to fighting racism and would likely be resistant to the suggestion that they are engaging in antisemitic discourse. Indeed, most are likely unaware of the history of antisemitism and the impact that their use of traditional antisemitic iconography may have on Jews. Nonetheless, whether in purpose or effect, the Inquiry Panel concludes that criticism of Israel that is unfounded, based on antisemitic tropes, or that uses antisemitic themes is discriminatory and harmful, and is cause for grave concern.

The Panel also heard that the twenty-first century has seen the rise of a new and concerning ideology, commonly referred to as Islamism, which is responsible for a substantial component of contemporary antisemitism. The Inquiry Panel notes with regret that there is no clear and precise terminology to underline the fact that Islamism refers to a different phenomena than the religion of Islam. The Inquiry Panel recognizes and affirms this important distinction. As was noted by the UK All-Party Inquiry, "there is much that the Jewish and Muslim communities can learn from one another in tackling racism."<sup>37</sup>

However, witnesses testified that there is a "small" but "prevalent"<sup>38</sup> minority in Canada who subscribe to the ideology of Islamism. Islamism was described by Professor Robert S. Wistrich, as "[u]ndoubtedly ... the single, though not the only, major

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<sup>36</sup> Testimony of Miriam Stein, November 16, 2009, p. 18.

<sup>37</sup> All-Party Report, UK, p. 26.

<sup>38</sup> Testimony of Dr. Charles Small, November 2, 2009, p. 19.

threat to the existence, physical and otherwise, of Jews today, but it is a much broader threat to western society, to democratic norms, to civic culture.”<sup>39</sup>

The doctrine of Islamist ideology has “at its core a form of genocidal antisemitism.”<sup>40</sup> It is based on “zero tolerance” for the existence of any non-Muslim state in the Middle East. It views Jews in “conspiratorial terms” as enemies of Islam and has adopted the worst forms of European antisemitism as part of its political programs.<sup>41</sup> For example, antisemitic libels are evident in statements of Hezbollah and other jihadist organizations.<sup>42</sup> The Inquiry Panel was particularly troubled to learn that the Czarist forgery “Protocols of the Elders of Zion” has seen a resurgence of popularity in the Islamic world. Dr. Charles Small testified that the Iranian revolutionary regime, Hamas, Hezbollah, and other radical Islamists are using the “Protocols of the Elders of Zion” to spread traditional forms of antisemitism and to dehumanize the State of Israel.<sup>43</sup>

The message of this form of radical Islam is antithetical to Canadian values, advocating not only hatred for Jews, but also the subjugation of women, and the justification of the killing of gay people.<sup>44</sup> Along these lines, the Inquiry Panel heard of an Islamist Imam who made public statements calling Quebec women “whores” and saying that homosexuals should be killed.<sup>45</sup>

A number of witnesses discussed the particularly harmful and dangerous effects that exposure to Islamist rhetoric may have on our youth.<sup>46</sup> Dr. Fred Lowy, President Emeritus of Concordia University, argued that a “very important reason for

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<sup>39</sup> Testimony of Professor Robert S. Wistrich, November 23, 2009, p. 18.

<sup>40</sup> Testimony of Dr. Charles Small, November 2, 2009, p. 16.

<sup>41</sup> Testimony of Professor Robert S. Wistrich, November 23, 2009, p. 18.

<sup>42</sup> Testimony of Professor Robert S. Wistrich, November 23, 2009, p. 18.

<sup>43</sup> Testimony of Dr. Charles Small, November 2, 2009, p. 17.

<sup>44</sup> Testimony of Dr. Charles Small, November 2, 2009, p. 19.

<sup>45</sup> Testimony of Karen Selick, November 23, 2009, p. 15.

<sup>46</sup> Testimony of Dr. Charles Small, November 2, 2009, p. 19.

antisemitism on [Canadian] campuses," is a group "of politically committed Islamist students who essentially mobilize support from within the Muslim student community and then within the general activist community for political purposes."<sup>47</sup>

**The Inquiry Panel is concerned about the effects of Islamist ideology in propagating antisemitism in Canada.**

**We recommend that the Government of Canada and Canadian legislators uphold freedom of speech principles, so that all those who oppose and seek to combat this radical ideology have a protected voice with which to advocate against it.**

**We recommend that the Government of Canada continue to include in its list of terrorist organizations, groups such as Hamas and Hezbollah, who seek the destruction of the Jewish people, and that it restrict or prohibit Canadians from funding them.**

**Recognizing the vulnerability of immigrant communities, we recommend that funding guidelines should be strengthened to withhold any form of government funding or other support for NGOs that preach hatred or antisemitism – particularly those involved in integration and settlement of new Canadians where they may influence understanding of the responsibilities and obligations of Canadian citizenship.**

**We recommend that political leaders stress the need for civil discourse, based on Canadian values, among groups in Canada, especially when dealing with contentious political issues.**

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<sup>47</sup> Testimony of Dr. Fred Lowy, November 24, 2009, pp. 3-4.

### III. ANTISEMITISM IN CANADA

#### A. Defining Antisemitic Incidents

In the Inquiry Panel's view, the ability to understand the current scope and severity of the problem of antisemitism in Canada depends on two factors:

- A shared understanding of what qualifies as antisemitism among those in a position to identify and report such activity, and
- An effective reporting system, that allows the pooling and analysis of information from all relevant sources across Canada.

Antisemitic incidents in Canada are currently identified and tracked in a number of different ways.

From a legal perspective, prohibited antisemitic activity falls into two main categories, hate crimes and discrimination under human rights legislation.

##### a. Hate Crimes

The *Criminal Code* specifies four "hate crimes" in sections 318 to 319 and 430. These are:

- Advocating genocide;
- Public incitement of hatred;
- Wilful promotion of hatred; and
- Mischief to religious property.

Under the *Criminal Code*, charges for hate crimes can only be brought forward with the permission of the Attorney General.

In addition, section 718.2 of the *Criminal Code* states that when sentencing individuals found guilty of criminal offences, courts may take into consideration evidence that a crime was motivated by bias, hate or prejudice, and are authorized to apply additional penalties based upon these motivations.<sup>48</sup>

In 2004, the Canadian Centre for Justice Statistics developed a national definition as to what, for the purposes of data collection, constitutes a "hate crime":

Hate crime is defined as a criminal violation motivated by hate, based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation or any other similar factor.<sup>49</sup>

Statistics Canada collects information on hate crimes via two surveys: the Uniform Crime Reporting (UCR) survey<sup>50</sup> and the General Social Survey (GSS) on victimization<sup>51</sup>. The UCR survey is conducted annually and gathers information from police forces on crimes that have been substantiated as motivated by hate. The GSS, which began collecting hate crime data in 1999, is conducted every five years and gathers information from Canadians who self-report being victims of hate crimes.

All police services are required to report hate crimes to the UCR. However, while all police services across Canada are required to report on the number of hate crimes, there

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<sup>48</sup> *Criminal Code*, *supra*, ss. 318, 319, 320 and 718(2).

<sup>49</sup> "Uniform Crime Reporting Incident-Based Survey" Canadian Centre for Justice Statistics, *Policing Services Program* (Statistics Canada, 2008), 96.

<sup>50</sup> According to the Statistics Canada Website: "The UCR Survey was developed in 1962 with the cooperation and assistance of the Canadian Association of Chiefs of Police. UCR Survey data reflects reported crime that has been substantiated through police investigation from all separate federal, provincial and municipal police services in Canada. There are currently two versions of the UCR Survey: aggregate and incident-based microdata." (<http://www.statcan.gc.ca/pub/85-002-x/2010002/sources-eng.htm#u2>).

<sup>51</sup> According to the Statistics Canada Website: "The survey is designed to produce estimates of the extent to which persons are the victims of eight types of offences (assault, sexual assault, robbery, theft of personal property, breaking and entering, motor vehicle theft, theft of household property and vandalism); to examine the risk factors associated with victimization; to examine the rates of reporting to the police; and to evaluate the fear of crime and public perceptions of crime and the criminal justice system." (<http://www.statcan.gc.ca/pub/85-002-x/2010002/sources-eng.htm#u2>).

is no requirement for tracking hate crimes based on the targeted minority group.<sup>52</sup> While some police forces, like the Hamilton Police Service<sup>53</sup>, do track the number of incidents directed at the Jewish community, others do not.<sup>54</sup> As a result, it is impossible to do a comprehensive analysis of the level and nature of hate crimes across Canada, as these statistics are not recorded by all police forces.

In addition, there is no current standardized definition of an antisemitic crime. The result is that for those jurisdictions that do break down hate crimes by target group, it is still not possible to compare the level of antisemitism across jurisdictions because the information is not collected in a standardized way.<sup>55</sup>

**Therefore, the Inquiry Panel agrees with the recommendations put forth by many law enforcement professionals,<sup>56</sup> specifically those of then Commissioner Julian Fantino of the Ontario Provincial Police, who recommended that Canada should establish “national standards for police services across the country so that we have a common understanding of what constitutes an antisemitic crime, together with consistent across-the-board mechanisms for data reporting and statistical analysis.”<sup>57</sup>**

**We recommend that police services across Canada begin to report hate crimes broken down by targeted community.**

**We recommend that the resulting data be compiled and released in the annual Uniform Crime Reporting Survey.**

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<sup>52</sup> See Mia Dauvergne, “Police-reported hate crime in Canada, 2008,” <http://www.statcan.gc.ca/pub/85-002-x/2010002/article/11233-eng.htm>, for an explanation of the surveys on hate crimes conducted by Statistics Canada.

<sup>53</sup> Testimony of Deputy Chief Ken Leenderste, February 8, 2010, p. 22.

<sup>54</sup> For example, the Ontario Provincial Police does not keep track of crimes specifically against the Jewish community (Testimony of Commissioner Julian Fantino, December 8, 2009, p. 11).

<sup>55</sup> Testimony of Chief Bill Blair, December 8, 2009, p. 16.

<sup>56</sup> Testimonies that included a recommendation for standardized definitions included those of Hon. Andrew Swan, Attorney General of Manitoba, Chief Armand La Barge, York Regional Police, Sergeant John Burchill, Winnipeg Police Services and Allan Nause, Assistant Commissioner, Royal Canadian Mounted Police.

<sup>57</sup> Testimony of Commissioner Julian Fantino, December 8, 2009, p. 12.

**b. Hate Incidents**

Not all antisemitic incidents are criminal. As explained by Detective Sergeant Monica Christian:

Antisemitism is racism, and racism under any guise is deplorable. Antisemitic, racist, and hateful comments are offensive to the vast majority of Canadians, but it must be said that this type of behaviour is not necessarily illegal.<sup>58</sup>

Similarly, Chief Bill Blair noted that many of the types of activities referred to in the EUMC definition that are very offensive would nevertheless not be considered criminal in Canada.<sup>59</sup> Inspector John de Haas of the Vancouver Police noted that "we need a good analysis, not just of the crimes, but everything under it. The crimes are the tip of the iceberg."<sup>60</sup>

As noted by Assistant Commissioner Allen Nause of the RCMP, police records management systems do not record incidents where there is no violation of the law. Thus, if racial slurs are made but no crime is committed, no record is made.<sup>61</sup> Given that police are often the first point of contact for individuals who experience such non-criminal yet clearly antisemitic activity, it would be beneficial for police agencies to keep track of these incidents.

**Therefore, the Inquiry Panel recommends that the Canadian Centre for Justice Statistics adopt and promote a standardized definition of "non-criminal antisemitic incident." This definition should be formulated with reference to the EUMC definition of antisemitism.**

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<sup>58</sup> Testimony of Detective Sergeant Monica Christian, December 8, 2009, p. 11.

<sup>59</sup> Testimony of Chief Bill Blair, December 8, 2009, p. 17.

<sup>60</sup> Testimony of Inspector John de Haas, February 8, 2010, p. 28.

<sup>61</sup> Testimony of Assistant Commissioner Allen Nause, February 8, 2010, p. 1.

Assistant Commissioner Nause testified that the RCMP has a policy of providing guidance and directing individuals to refer their non-criminal complaints to the appropriate provincial or federal human rights commission.<sup>62</sup> Human rights codes at both provincial and federal levels have provisions that may address hate-motivated activity. These statutes prohibit a range of discriminatory practices, including those whose purpose is the incitement and spread of hatred.

Individuals may also bring complaints directly to these commissions, which therefore may also serve as an important repository of information about non-criminal antisemitic incidents in Canada. The Inquiry Panel also heard testimony from a number of organizations, such as the Friends of the Simon Wiesenthal Center and B'nai Brith Canada, which track and report on antisemitic incidents in Canada.

**Therefore, in order to ensure the most comprehensive understanding of the level and nature of non-criminal antisemitic incidents in Canada, the Inquiry Panel recommends that all bodies, including police, human rights commissions, and not-for profit agencies, work to coordinate and pool information about antisemitic incidents in Canada.**

#### **B. The Frequency and Severity of Antisemitic Incidents**

The Inquiry Panel received evidence that antisemitic incidents are on the rise globally. The Panel heard evidence that there has been "a serious rise of antisemitism in Europe almost without parallel or precedent since the Second World War."<sup>63</sup> Resolution 1563 of the Parliamentary Assembly of the Council of Europe noted that "far from having been eliminated, antisemitism is today on the rise in Europe. It appears in a variety of forms

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<sup>62</sup> Testimony of Assistant Commissioner Allen Nause, February 8, 2010, p. 1.

<sup>63</sup> Submissions of the Honourable Irwin Cotler.

and is becoming relatively commonplace.”<sup>64</sup> Indeed, 2009 saw the highest incidence of attacks on Jewish persons, institutions and property ever recorded in countries like the U.K. and France.<sup>65</sup>

The Community Security Trust (CST) is a British charity that, among other functions, records and analyses antisemitic incidents in the United Kingdom. In 2009, it recorded 924 antisemitic incidents. This represented the highest annual total since it began recording antisemitic incidents in 1984, and is 55% higher than the previous record in 2006. The CST also found that the main reason for this record spike was the “unprecedented number” of antisemitic incidents recorded in January and February of 2009, during and after the war between Israel and Hamas in Gaza. The number of incidents recorded did not return to relatively normal levels until April, some three months after the war ended.<sup>66</sup>

This global upward pattern in antisemitic incidents is, unfortunately, reflected in the Canadian experience. According to the Hon. Jason Kenney, Minister of Multiculturalism, Citizenship and Immigration, while the situation in Canada is not as grave as it is in some other Western societies, antisemitism is a “significant and growing problem in Canada.”<sup>67</sup>

The Inquiry Panel heard evidence that Jews in Canada are disproportionately targeted. According to data compiled by Statistics Canada on hate-motivated crimes, in each of 2006, 2007, and 2008, hate crimes against Jews formed the second-most-frequently reported category of hate crime (second only to hate crimes against African-

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<sup>64</sup> “Resolution 1563: Combating Antisemitism in Europe,” Parliamentary Assembly of the Council of Europe (2007).

<sup>65</sup> “Study: Anti-Semitism in Europe hit new high in 2009” on the website of Ha’aretz, accessed on June 1, 2011, <http://www.haaretz.com/jewish-world/news/study-anti-semitism-in-europe-hit-new-high-in-2009-1.284032>.

<sup>66</sup> Community Security Trust, “Antisemitic Incidents Report 2009”: <http://www.thecst.org.uk/docs/CST-incidents-report-09-for-web.pdf>, p. 4.

<sup>67</sup> Testimony of the Honourable Jason Kenney, February 8, 2010, p. 18.

Canadians).<sup>68</sup> In each of the three years, antisemitic incidents accounted for 15-16% of all reported hate crimes. From 2007 to 2008, the number of antisemitic incidents increased by 42%, up from 116 in 2007 to 165 in 2008. It is also important to note that there is a generalized issue of under-reporting of hate incidents.

There were 265 religiously motivated hate crimes in 2008, up by 92 incidents over 2007, or 53%. Twenty-four per cent of reported hate crimes that year were motivated by religion and of these, 62% were targeted against the Jewish community.<sup>69</sup>

There are also indications that in some locations, the proportion of hate crimes that target the Jewish community is increasing. In Calgary, for example, while the actual number of hate incidents has steadily dropped over the past 5 years, the number of antisemitic incidents has steadily risen, with the result that the proportion of such incidents that are targeted against the Jewish community has risen from about 1.9% in 2005, to 8.8% in 2008, with indications, at the time the evidence was given, suggesting that there would be an even further increase in 2009 statistics.<sup>70</sup>

As Ruth Klein of B'nai Brith stated, police experts and sociologists agree that only about ten per cent of victims ever come forward to report their victimization.<sup>71</sup> In addition, as discussed above, there is a lack of consistency among agencies, and even within the police forces, as to how antisemitic incidents are recorded. However, while looking at the absolute number of incidents reported by various agencies may therefore not be reflective of the actual number of incidents occurring, the trends noted by individual organizations are nonetheless instructive. The League for Human Rights of B'nai Brith Canada's 2009 Audit of Antisemitic Incidents demonstrates the continuing escalation of

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<sup>68</sup> See also testimony of Inspector John de Haas, of the Diversity & Aboriginal Policing Section of the Vancouver Police Department, who noted that in Vancouver, the Jewish population suffers the second-highest number of bias, hate or prejudice incidents of any identifiable group (February 8, 2010, p. 20).

<sup>69</sup> Testimony of Kristina Namiesniowki, December 8, 2009, p. 1.

<sup>70</sup> Submissions of Deputy Chief Murray Stoke, Calgary Police Services.

<sup>71</sup> Testimony of Ruth Klein, November 30, 2009, p. 16.

antisemitism in Canada. There was an 11.4% increase documented in 2009 over the 2008 figures. The 2010 Audit detailed 1,306 antisemitic incidents, representing a 3.3% increase over the 2009 data.<sup>72</sup> This continues a general upward trend. There has been a nearly 5-fold increase in the number of antisemitic incidents recorded over the past decade.<sup>73</sup> The incidence of antisemitic incidents in 2010 was the highest on record in the 28-year history of the League's Audit.<sup>74</sup>

Also concerning is the view among professionals that the level of hostility is increasing. According to Doron Horowitz, current director of community security for UJA Federation of Greater Toronto, there has been an increase in local antisemitic incidents – including in Calgary, Barrie, Ottawa and Hamilton.<sup>75</sup> In his view, not only has there been an increase in antisemitic acts, but “There is an increase in intention. There is an increase in hostility.”<sup>76</sup>

Indeed, the data on antisemitic incidents reveal only half of the picture. The incidents recorded generally include attacks on Jewish persons, property and institutions - in other words, traditional manifestations of antisemitism. They do not, however, capture incidents of antisemitic discourse - for example, the types of remarks made by the French Ambassador to the UK questioning why the world should risk another world war because of “that shitty little country Israel” or the allegations of British novelist A.N. Wilson accusing the Israeli army of “the poisoning of water supplies.” Further, as was pointed out by the Honourable Irwin Cotler, this data does not make obvious the fact that the rise in traditional antisemitism is inextricably related to the rise in new

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<sup>72</sup> Available online: <http://jewishtribune.ca/tribune/PDF/audit2010/ENAudit2010.pdf>.

<sup>73</sup> Available online: <http://www.bnaibrith.ca/files/audit2009/MAINAUDITENG.pdf>.

<sup>74</sup> Available online: <http://jewishtribune.ca/tribune/PDF/audit2010/ENAudit2010.pdf>.

<sup>75</sup> Testimony of Doron Horowitz, December 8, 2009, p. 9.

<sup>76</sup> Testimony of Doron Horowitz, December 8, 2009, p. 9.

antisemitism, that contemporary antisemitism is "insidiously buoyed by a climate receptive to attacks on Jews because of the attacks on the Jewish state."<sup>77</sup>

### C. Nature of Antisemitic Incidents

The Inquiry Panel heard evidence from police forces across Canada indicating that the majority of hate crimes against Jews were mischief-related.<sup>78</sup> Former Ontario Provincial Police Commissioner Julian Fantino also testified that in Ontario, the most common type of incident of antisemitism takes the form of mischief to property, which includes religious properties and other Jewish entities. There were however also more serious offences of advocating or promoting genocide and the wilful promotion of hatred. Most acts of antisemitic mischief were perpetrated by youths.<sup>79</sup>

B'nai Brith Canada recorded 1,135 antisemitic incidents in 2008, 70.7% of which were categorized as "harassment" incidents, 28% as vandalism, and 1.2% of which were described as violent incidents.<sup>80</sup> Furthermore, according to a Stats Canada report released in June 2011 on police reported hate crimes, the number of crimes targeting the

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<sup>77</sup> Submissions of the Honourable Irwin Cotler.

<sup>78</sup> Deputy Chief Ken Leenderste of the Hamilton Police Service testified that the majority of hate crimes directed against the Jewish community in Hamilton were in the form of mischief to property, usually in the form of graffiti (Testimony of Deputy Chief Ken Leenderste, February 8, 2010, p. 22); Both Hamilton and York Region police reported that the majority of their hate/bias crimes were mischief offences. In Calgary in 2009, 46% of hate/bias crimes involved assault, 33% involved mischief and 14% involved threats. 73% of reported hate/bias crimes involving religion (e.g. antisemitism) were mischief-related (Written Submissions of Murray Stooke, p. 1.); In Toronto, though the Jewish Community makes up only 4% of the population, 30% of all hate/bias crimes reported to the Toronto Police Service are targeted against the Jewish community. The most commonly reported of the hate/bias crimes is the crime of mischief, representing 75% of the total reported hate crimes (Testimony of Chief William Blair, December 8, 2009, p. 13).

<sup>79</sup> Testimony of former Commissioner Julian Fantino, December 8, 2009, p. 12.

<sup>80</sup> Submissions of B'nai Brith Canada, p. 9.

Jewish community in Canada spiked by 71% between the period of 2008 and 2009, accounting for the most significant rise in hate crimes motivated by religion.<sup>81</sup>

Detective Sergeant Monica Christian, of the Hate Crimes Unit of the Ottawa Police Service, gave evidence of the “changing face to the conventional acts of antisemitism.” While swastikas are still being painted on walls and cemeteries are being desecrated, “the hate itself has now grown and festered and manifests itself in different ways.” She testified that the Internet is a key “modern-day venue for the spreading of hate rhetoric.” Social media sites such as Facebook and Twitter are becoming more problematic.<sup>82</sup>

The Inquiry Panel heard that, notwithstanding the general decline of White Supremacist movements in this country, Calgary has recently seen a rise of the “Aryan Guard,” a White Supremacist group created in 2007.

The Calgary Jewish Community Council pointed out that the Aryan Guard’s “recruitment efforts … appear to be successful as the number of participants in the White Pride rallies is growing. However, each Aryan Guard rally or parade is met with an even larger number of counter-demonstrators.” The Council noted in its presentation that “the average Calgarian is horrified by the presence of this group.”<sup>83</sup> This testimony reinforces the Inquiry Panel’s view that a decisive majority of Canadians recognize that antisemitic violence and hate crimes are an affront to Canadian values.

The Inquiry Panel heard evidence that Quebec is the province with the second highest number of antisemitic incidents in Canada, the highest being in Ontario. Of the 1,135 cases reported to Statistics Canada in 2008, 245 took place in Quebec.<sup>84</sup> As noted above,

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<sup>81</sup> Available online: <http://www.statcan.gc.ca/pub/85-002-x/2011001/article/11469-eng.pdf>.

<sup>82</sup> Testimony of Detective Sergeant Monica Christian, December 8, 2009, p. 10.

<sup>83</sup> Submissions of Calgary Jewish Community Council.

<sup>84</sup> Testimony of Moise Moghrabi, December 1, 2009, p. 13.

a significant number of the most serious recent acts of antisemitism also took place in Quebec. As in other jurisdictions, antisemitic incidents in Quebec tend to be tied to the situation in the Middle East.

There was also evidence that institutions, such as the union movement in Quebec, who traditionally speak out on issues of social justice, have at times remained silent in the face of injustices, such as the firebombing of Jewish institutions, and that this may further cultural divides.<sup>85</sup>

The Inquiry Panel heard testimony suggesting that leaders in the province must make a special effort to ensure that "the Quebec values of tolerance, respect, non-violence and the ability to embrace the richness of good intercultural relations come first," in an attempt to make sure that intolerance within the province is kept in check.<sup>86</sup>

In 2007, the Lieutenant Governor of Quebec appointed a two-person commission (the Bouchard-Taylor Commission) to investigate the issue of reasonable accommodation in Quebec. The mandate was to study the socio-cultural integration model in Quebec and review interculturalism, immigration and secularism and the theme of Quebec identity.<sup>87</sup>

The Inquiry Panel heard evidence that the recent debates in Quebec on reasonable accommodation, including the debate concerning the place of religion in public spaces, may have had the result of fanning the flames of antisemitism in Quebec. Fo Niemi, executive director of the Center for Research-Action on Race Relations (CRARR), stated

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<sup>85</sup> Testimony of Fo Niemi, December 1, 2009, p. 5.

<sup>86</sup> Testimony of Adam Atlas, December 7, 2009, p. 3.

<sup>87</sup> Reasonable accommodation is the concept of requiring systems or institutions to change in order to adjust and meet the needs of individuals with certain characteristics (for example, disabilities, sex, race), in order to allow for their full participation in those institutions. The March 2008 report is entitled the "Consultation Commission on Accommodation Practices Related to Cultural Differences," and is often referred to as the Bouchard-Taylor Commission – the names of its two Commissioners.

that these debates often have served as a platform for public expressions of racism, including towards the Jewish community.<sup>88</sup>

As stated by Moise Moghrabi, Quebec Regional Chair of the League for Human Rights of B'nai Brith Canada, explains “wholesale rejection of religion as a mainstay in their lives by Quebecers,” and for that reason, requests for accommodation by the Jewish community and requests for accommodation on the basis of religious justifications may be seen as going against Quebecers’ desire to escape from the bonds of religion.”<sup>89</sup>

**The Inquiry Panel adopts the recommendation of Mr. Niemi, executive director of the Center for Research-Action on Race Relations (CRARR), that the fight against antisemitism must take place “effectively and equally in French and in English. It needs to take into account the special dynamics of the French-speaking collectivity in Canada...”<sup>90</sup>**

#### **D. Recent Incidents**

Some examples of recent incidents of antisemitism in Canada include:

- In January 2011, four synagogues, a Jewish school and a daycare had their windows smashed in targeted vandalism attacks in Montreal.<sup>91</sup>
- In January 2010, a freelance reporter receives an email telling her to “stop working for the kikes” if she wants to be taken seriously.<sup>92</sup>

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<sup>88</sup> Testimony of Fo Niemi, December 1, 2009, p. 5.

<sup>89</sup> Testimony of Moise Moghrabi, December 1, 2009, p. 14.

<sup>90</sup> Testimony of Fo Niemi, December 1, 2009, p. 6.

<sup>91</sup> The Toronto Star, “Jews fear ‘orchestrated campaign’ of hate after attacks in Montreal,” (accessed January 30, 2011), <http://www.thestar.com/news/canada/article/923034--jews-fear-orchestrated-campaign-of-hate-after-attacks-in-montreal>.

<sup>92</sup> Available online: <http://jewishtribune.ca/tribune/PDF/audit2010/ENAudit2010.pdf>.

- In March 2010, a synagogue is desecrated, religious objects are ruined, and the *bima*<sup>93</sup> is defaced with swastikas.<sup>94</sup>
- In May 2010, a playground in Victoria, BC is vandalized with antisemitic graffiti reading “No Jews,” “Warsaw Ghetto” and a swastika.<sup>95</sup>
- On December 25, 2009, *Al Ameen*, an Islamic community newspaper in British Columbia, prints a story entitled “Ukrainian kids, new victims of Israeli ‘organ theft’”,<sup>96</sup> alleging that Ukrainian orphans had been spirited into Israel for purposes of harvesting their organs for transplants.
- In 2009, at York University in Toronto, Jewish students are barricaded inside the Jewish Students’ Association lounge by a mob of protesters.<sup>97</sup>
- In September 2009, a Jewish university professor in Halifax is sent a letter with antisemitic slurs addressed to “Tribe of Judah” at his home address.<sup>98</sup>
- In August 2009, a Thornhill, Ontario synagogue’s interior is defaced with antisemitic slurs.<sup>99</sup>
- In May 2009, in Montreal, a flyer depicting Jews as genocidal murderers is distributed throughout the Outremont area.<sup>100</sup>
- In April 2009, a Toronto playground is defaced with the words “Jew free zone”, “Jews not welcome,” along with Nazi symbols.<sup>101</sup>

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<sup>93</sup> A *bima* is the religious term for the podium in synagogues where the Torah/Bible is read from.

<sup>94</sup> Available online: <http://jewishtribune.ca/tribune/PDF/audit2010/ENAudit2010.pdf>.

<sup>95</sup> Available online: <http://jewishtribune.ca/tribune/PDF/audit2010/ENAudit2010.pdf>.

<sup>96</sup> Testimony of Inspector John de Haas, February 9, 2010, p. 21.

<sup>97</sup> Submissions of Hillel of Greater Toronto & Testimony of Daniel Ferman, November 16, 2009, p. 17.

<sup>98</sup> League for Human Rights of B’nai Brith Canada, 2009 Audit of Antisemitic Incidents, pp 13-15.

<sup>99</sup> League for Human Rights of B’nai Brith Canada, 2009 Audit of Antisemitic Incidents, pp 13-15.

<sup>100</sup> League for Human Rights of B’nai Brith Canada, 2009 Audit of Antisemitic Incidents, pp 13-15.

<sup>101</sup> League for Human Rights of B’nai Brith Canada, 2009 Audit of Antisemitic Incidents, pp 13-15.

- In March 2009, a blog containing antisemitic content threatens a university's Jewish Studies Centre in Ottawa: "We need to identify the Zionist Kikes and their handmaiden. Time to draw up list, time is soon."<sup>102</sup>
- In January 2009, at an anti-Israel rally in Toronto, protesters chants include "Jews are our dogs", and "Jewish child, you're gonna f\*\*\*in' die. Hamas is coming for you."<sup>103</sup>
- In December of 2008, a Calgary man is punched in the face when he responded "so what if I am" to a group of individuals who asked if he was Jewish (he was not).<sup>104</sup>
- The words "Six million more" are written on the wall of a synagogue in Calgary.<sup>105</sup>
- At the University of Guelph, graffiti is found in the University Centre with the message "Kill all Jews" and "Allah destroy all Israel."<sup>106</sup>
- In November 2008, swastikas and the phrase 'dirty jew' [sic] are scrawled on the vehicle of a Jewish student at Queen's University.<sup>107</sup>

One particularly serious category of criminal incident deserves special attention. At the time of the hearing, Jewish communities in Canada had on nine occasions over the past decade been the target of bombings:

- 2007: firebombing of the YM-YWHA Ben Weider Jewish Community Centre in Côte-des-Neiges.<sup>108</sup>

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<sup>102</sup> League for Human Rights of B'nai Brith Canada, 2009 Audit of Antisemitic Incidents, pp 13-15.

<sup>103</sup> League for Human Rights of B'nai Brith Canada, 2009 Audit of Antisemitic Incidents, pp 13-15.

<sup>104</sup> Submissions of Kelly Mergen, Calgary Police Service, Diversity Resources Unit.

<sup>105</sup> League for Human Rights of B'nai Brith Canada, 2009 Audit of Antisemitic Incidents, pp 13-15.

<sup>106</sup> Submissions of Guelph Jewish Student Life.

<sup>107</sup> Submissions of Queens' University Hillel.

- 2006: firebombing of the Skver-Toldos Orthodox Jewish Boys School in Outremont.<sup>109</sup>
- 2004: firebombing of the United Talmud Torah elementary school in Montreal.<sup>110</sup>
- 2002: firebombing of Quebec City's Beth Israel Synagogue.<sup>111</sup>
- 2002: firebombing of Agudas Israel Synagogue in Saskatoon.<sup>112</sup>
- 2002: firebombing of a Montreal theatre playing a Jewish film.<sup>113</sup>
- 2000: three Molotov cocktails thrown into Edmonton synagogues (twice at Beth Shalom synagogue, and once at Beth Israel synagogue).<sup>114</sup>

#### **E. The Internet and Social Networking Sites**

The Inquiry Panel heard evidence about how the Internet and social networking sites are being used to spread hatred. Professor Robert S. Wistrich, Director of the Vidal Sasson International Centre for the Study of Antisemitism at the Hebrew University of Jerusalem<sup>115</sup> discussed the relationship between the emerging globalization of antisemitism and the use of these technologies:

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<sup>108</sup> CBC News, "Montreal man sent to prison for attacks on Jewish school, centre," (accessed January 30, 2011), <http://www.cbc.ca/canada/montreal/story/2009/02/12/mtl-firebombing-bulphred-0212.html>.

<sup>109</sup> *Ibid.*

<sup>110</sup> CTV News, "Arrests made in Jewish school's firebombing," (accessed January 30, 2011), [http://www.ctv.ca/CTVNews/Canada/20040515/firebombing\\_arrests\\_040514/](http://www.ctv.ca/CTVNews/Canada/20040515/firebombing_arrests_040514/).

<sup>111</sup> *2002 Audit of Antisemitic Incidents*, (League for Human Rights of B'nai Brith Canada, 2003), accessed on March 2, 2010, <http://www.bnaibrith.ca/publications/audit2002/audit2002-02.html>.

<sup>112</sup> *Ibid.*

<sup>113</sup> *Ibid.*

<sup>114</sup> CTV News, "Defacing of Edmonton Synagogue Condemned," (accessed on March 2, 2010), [http://www.ctv.ca/CTVNews/Canada/20051227/edmonton\\_synagogue\\_051227/](http://www.ctv.ca/CTVNews/Canada/20051227/edmonton_synagogue_051227/).

<sup>115</sup> Testimony of Professor Robert Wistrich, November 23, 2009, p. 17.

In certain respects, [Canada] has a greater access to millions of people because of the nature of contemporary technologies, and particularly of the internet. At a click of a button, you can enter a website more or less for free and be exposed to texts that in the past were extremely difficult to obtain, such as the *Protocols of the Learned Elders of Zion*, and there it is, downloaded, easily accessible, and passed on to others.

Dr. Manfred Gerstenfeld, Director of the Post-Holocaust & Antisemitism Program, Jerusalem Center for Public Affairs, wrote in his submission to the Inquiry that antisemitism "has adapted itself to the internet. Spreading antisemitism there is increasingly effective." In his view, the spread of antisemitism "may well lead to a culture where antisemitism is socially acceptable."

His submissions refer to papers discussing the effect of Web 2.0 – websites that allow for interactive, user-centered design and contribution to content – on the spread of hate. As one author states, Web 2.0 promotes the "idea of multiple narratives rather than the quest for a single truth. Where it makes a choice between these narratives, promoting some and hiding others, this is done by pure democracy. The community gets the truth it already believes."<sup>116</sup> The author discusses the implicit and explicit social pressures inherent in these fora that may result in conformity of opinions and normalization of hateful ideas.

It is clear that the Internet is leading to the spread of conspiracy theories and other antisemitic content. For example, according to US-based Southern Poverty Law Centre, there are 12,000 white supremacist propaganda videos and Holocaust-denial pseudo-

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<sup>116</sup> Andre Oboler, "Online Antisemitism 2.0: 'Social Antisemitism' on the 'Social Web'" No. 67, 1 April 2008/ 25 Adar Sheni 5768. Available online: <http://www.jcpa.org/JCPA/Templates>ShowPage.asp?DRIT=3&DBID=1&LNGID=1&TMID=111&FID=624&PID=0&IID=2235&TTL=Online%20Antisemitism%20>.

documentaries openly available on video-sharing websites such as YouTube.<sup>117</sup> The Panel heard about disturbing websites such as "Kaboom," an example of a "suicide-bombing game," and "Ziofacism.net," a Montreal blog featuring stereotypes of Jews, claims that Jews were involved in the 9/11 terrorist attacks and blaming Israel's intelligence agency for a supposed terrorist attack on Montreal's metro system.<sup>118</sup> The explosion of Holocaust denial on Facebook is a particularly concerning development. The Inquiry Panel shares the concern of many witnesses about the effect that exposure to such websites may have on youth.

The explosion of the number of antisemitic websites makes it very difficult to accurately or comprehensively monitor antisemitic content on the web. In addition, sites may be in other languages, posing further difficulties in effective monitoring. The ability to locate such sites is further complicated by the existence of "disinformation or stealth sites" that have neutral names, but are actually fronts for hate. For example, the website martinlutherking.org, is actually a front for a white supremacist group used to spread misinformation about Dr. King.<sup>119</sup>

All of these factors, as well as the speed with which new content and technologies are developing, pose important challenges to addressing these issues through legal means. As discussed by Dr. Gerstenfeld "This whole field has developed far too fast for governments to act effectively against it."<sup>120</sup> This sentiment was echoed by the Honourable Andrew Swan, Minister of Justice and Attorney General of Manitoba:

Hateful statements are very difficult for any individual police force, any individual province, or any one country, for that matter, to monitor and control. The Internet, as we know, is a great place for the cowardly to hide and to spread

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<sup>117</sup> Testimony of Matthew Johnson, December 1, 2009, p. 3.

<sup>118</sup> Testimony of Avi Benlolo, November 30, 2009, p. 15.

<sup>119</sup> Testimony of Matthew Johnson, December 1, 2009, p. 3.

<sup>120</sup> Testimony of Dr. Manfred Gerstenfeld, November 16, 2009, p. 6.

their hate. We will do what we can to try to shut down these sites and bring people to justice, but it is a challenge. I don't pretend to be an expert on technology. I know that there are frustrations with where the servers are located, with where the systems are that may be beyond the jurisdiction of law enforcement in Canada.<sup>121</sup>

The Inquiry Panel also heard that many international hate sources are located on servers in the United States, where that country's First Amendment often protects their content.

The Council of Europe's *Convention on Cybercrime* is an international treaty that attempts to address Internet crimes by harmonizing national laws, improving investigative techniques and increasing cooperation among nations, for example, by assisting with the extradition and prosecution of cyber-hate. This Convention was signed by Canada in 2001, but has not yet been ratified. Assistant Commissioner Allen Nause discussed the difficulty police experience in obtaining lawful access to internet communications. In late 2010, the current Government of Canada introduced three bills that would make it easier for police and intelligence officers to intercept and surveil online communications and would allow them to access personal information from internet service providers (ISPs) about their subscribers.

The "Additional Protocol to the Convention on cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems," was signed by Canada in 2005, but has not yet been ratified. The Additional Protocol requires signatory states to adopt legislation and the necessary measures to criminalize the distribution and making available to the public racist or xenophobic

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<sup>121</sup> Testimony of the Honourable Andrew Swan, February 8, 2010, p. 4.

material through computer systems, intentionally and without right. It requires member states to pass legislation that would cover racist insults and threats.

#### **F. Antisemitism on Campus**

##### **a. Climate of Antisemitism a Growing Problem on Some University Campuses**

The Inquiry Panel heard evidence that antisemitism is a serious and growing concern on some Canadian campuses.

While this phenomenon takes many forms, including traditional expressions of antisemitism, it is increasingly manifesting itself in terms of anti-Israel discourse that denies the Jewish people the right to self determination, uses symbols and images associated with traditional antisemitism, draws comparisons of contemporary Israeli policy with that of Nazis, and holds Jews collectively responsible for actions of the state of Israel. In accordance with the EUMC Working Definition of Antisemitism, such discourse crosses the line from legitimate criticism of Israel into antisemitism.

The Inquiry Panel finds that such discourse is creating - in some cases, but thankfully not most - an inhospitable climate for Jewish students on campus. As described by Dr. Karen Eltis, Professor of Law at the University of Ottawa:

The global phenomenon of antisemitism that draws on traditional motifs but extends from the individual to the collective Jew, Israel, is spilling over into Canadian campuses and creating a hostile environment of intimidation, fear, and demonization, in which violence, both psychological and even physical, is increasingly extended legitimacy.<sup>122</sup>

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<sup>122</sup> Testimony of Dr. Karen Eltis, December 7, 2009, p. 5.

The Inquiry Panel heard evidence that Jewish students, particularly those who are forthrightly supportive of Israel, have faced harassment from other students, hostility from professors, smears on their ancestral homeland and libelous attacks on their personal integrity for supporting that homeland. As summarized in the submission of Raphael Szajnfarber, former president of Hillel Ottawa:

By the end of the year, many Jewish students were made to feel unwelcome on Carleton's campus by the anti-Israel activists. Indeed, the anti-Israel activists were so vicious in their tactics and so unrelenting in their verbal abuse, that nearly every day, I received calls from crying students, or students who no longer wanted to go to class because they felt intimidated by their colleagues, and even some of their professors.<sup>123</sup>

Similarly, Shelley Faintuch, the Community Relations Director of the Jewish Federation of Winnipeg testified that:

Our students have been feeling rather beleaguered. A number of groups are bringing in speakers who are characterizing Israel as an apartheid state and who are making our students feel unsafe and unwelcome. ... Despite the fact that we don't have an Israeli Apartheid Week, our students have told us that the environment is becoming more and more malignant for them.<sup>124</sup>

The Panel heard testimony Dr. Noemi Gal-Or, a Jewish professor of Israeli origin in the Department of Political Science, at Kwantlen Polytechnic University, in Surrey, B.C. She testified about her experience of antisemitism on B.C. campuses, which has become

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<sup>123</sup> Submissions of Raphael Szajnfarber.

<sup>124</sup> Testimony of Shelley Faintuch, November 30, 2009, p. 19.

increasingly overt over time.<sup>125</sup> She stated that the climate in B.C. is reflected throughout Canada and is also part of a global phenomenon. She stated that she has:

now been experiencing this “atmosphere” when attending conferences in Europe and elsewhere. However, developments abroad have increasingly been spilling over into Canada, and becoming more pronounced on our country’s post-secondary education campuses. While for long exhibited in form of sub-text in many academic circumstances, it has recently turned explicit.<sup>126</sup>

The Inquiry Panel heard evidence that there are some faculty members who sympathize with Jewish students but feel uncomfortable speaking out because they fear repercussions in their own academic circles.<sup>127</sup>

Professor Patrick Monahan, Vice-President Academic and Provost, York University, testified that “conflicts around the Middle East and the debate over the conflict in the Middle East have become the most challenging issues in terms of free expression on university campuses.”<sup>128</sup>

A recent event illustrates some of the challenges facing university administrators in terms of achieving the difficult and important balance between the need to provide a safe, harassment-free learning environment for all, and the need to promote and protect the value of freedom of expression. A conference was held at York University in 2009 entitled “Israel/Palestine: Mapping Models of Statehood and Paths to Peace.” The conference was intended to “to explore which state models offer promising paths to

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<sup>125</sup> Submissions of Noemi Gal-Or. For example, in early 2009, after a series of incidents where a Canadian-Palestinian student made provocative antisemitic and anti-Israeli comments, Dr. Gal-Or entered her classroom on February 16, 2009, to find “You exist, therefore I am offended,” in conjunction with a test referring to a revolution in Palestine, and a map of Israel and a Palestinian flag.

<sup>126</sup> Testimony of Noemi Gal-Or, November 23, 2009, p. 2.

<sup>127</sup> Testimony of Immediate Past President, Hillel at Queen’s University, November 16, 2009, p. 23.

<sup>128</sup> Testimony of Patrick Monahan, November 24, 2009, p. 13.

resolving the Israeli-Palestinian conflict, respecting the rights to self-determination of both Israelis/Jews and Palestinians.”<sup>129</sup>

However, it was reported to us that notwithstanding the ostensible purpose of the conference as described, the reality was that at this event “anyone who challenged the Palestinian perspective was intimidated or even labelled a racist... At times, those presenting a different view were subject to abuse and ridicule,”<sup>130</sup> and that it promoted the view that “Zionism has an inherent tendency toward war crimes.” We agree with the assessment of the Simon Wiesenthal Center that events like this “instead of offering a fair and balanced debate ... use the veil of academic freedom to legitimize calls for the elimination of the Jewish state.”<sup>131</sup>

Universities are the intellectual centre of Canadian society. The free exchange of ideas in an open climate of tolerance is the cornerstone of academic life. Thus, the Inquiry Panel is particularly concerned about the implications for this exchange where Jewish students and faculty may feel the need to self-censor or to hide their Jewish identity in the context of an increasingly unwelcoming climate. Given the fundamental role that universities play in shaping the mindset and opinions of coming generations, the removal of free debate from university life, with no effective counter-point to bigoted views, may have particularly long-term, damaging consequences.

**The Inquiry Panel, with the sole exception of speech that is prohibited by law, agrees with witnesses that it is vital for universities to maintain an environment where freedom of speech can prevail.**

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<sup>129</sup> Available online: <http://www.yorku.ca/ipconf/index.html>.

<sup>130</sup> Quote of Na’ama Carmi who presented at the conference, in submissions of Hillel of Greater Toronto.

<sup>131</sup> Submissions of Avi Benlolo, President and C.E.O. of Friends of the Simon Wiesenthal Center for Holocaust Studies.

**b. The Problem on Canadian Campuses is Reflective of a Global Phenomenon**

That antisemitism is a growing problem on Canadian campuses is, unfortunately, reflective of a problem that is occurring on campuses around the world. For example, the UK Report concluded that "Jewish students feel disproportionately threatened in British universities as a result of antisemitic activities which vary from campus to campus."<sup>132</sup> Similarly, the U.S. Commission on Civil Rights found that "Many college campuses throughout the United States continue to experience incidents of antisemitism, a serious problem warranting further attention."<sup>133</sup>

In addition, in February 2006, a Conference on Academic Antisemitism was held in Amsterdam. The Conference brought together an international group of participants from civil rights organizations, academic and student organizations to discuss how antisemitism is manifesting on campuses around the world. Participants in the conference came up with recommendations to the Organization for Security and Cooperation in Europe (OSCE) on ways to combat antisemitism at universities across North America and Europe.<sup>134</sup> The recommendations state, in part:

Antisemitism has no place in higher education. However, in recent years universities on both sides of the Atlantic have had to grapple with this problem. We've witnessed reports of speakers in academic settings employing classic antisemitic stereotypes, demonising Jews, and demonising Israel. We have also seen the growth of petitions to boycott and exclude Israeli professors, students, and universities from academic exchange programs. Divestment campaigns and the rhetoric surrounding them are also problematic.

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<sup>132</sup> All-Party Report, UK, p. 42.

<sup>133</sup> U.S. Commission on Civil Rights, *Briefing Report on Campus Antisemitism*, July 2006. Available online: <http://www.usccr.gov/pubs/081506campusantibrief07.pdf>.

<sup>134</sup> Testimony of Sheldon Levy, November 24, 2009, p. 6.

We fear that this age-old disease may poison a new generation.<sup>135</sup>

**c. Quantifying the Level of Antisemitism on Canadian Campuses**

The Inquiry Panel heard evidence that barriers similar to those that impede efforts at objectively measuring and understand the level of antisemitism in Canadian society in general, also arise with respect to efforts to understand the level of antisemitism on Canadian campuses.

Students who feel that they are the victims of antisemitic incidents have a number of places they may go to report them. For instance, some students may go to campus protection services, others may go to their campus Jewish student organization, and others still may go to the administration or to a youth counselling service on campus.<sup>136</sup> Many may not report these incidents at all.

Similarly, there is no university-wide understanding of what constitutes antisemitism. As noted by Ruth Klein of B'nai Brith Canada, it is difficult for universities to keep statistics on antisemitic incidents when they don't have definitions in their policies.<sup>137</sup> There are also no university-wide systems in place to collect and share information on incidents that occur on campus.

**The Inquiry Panel therefore recommends that Canadian universities work together to develop protocols and procedures for the reporting and pooling of information relating to antisemitic incidents on campus, as defined with reference to the EUMC**

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<sup>135</sup> Available online: <http://www.osce.org/cio/25705>.

<sup>136</sup> Testimony of Francine Page, November 24, 2009, p. 14.

<sup>137</sup> Testimony of Ruth Klein, November 30, 2009, p. 20. See also testimony of Kenneth Stern, American Jewish Committee, November 23, 2009, p. 20, who states that it is "it incumbent upon universities to do a survey of their students, faculty, and others to see how these issues are panning out, and not just in terms of antisemitism but bigotry in general."

**Working Definition of Antisemitism.** All university staff and students should be encouraged to document and report antisemitic incidents whenever they occur.

**d. Nature and Scope of Antisemitic Incidents on Campus**

Though there are no reliable statistics in terms of the absolute number of antisemitic incidents on campuses across Canada, there are reliable indications that such incidents are on the rise. The League for Human Rights of B'nai Brith Canada's "2009 Audit of Antisemitic Incidents" reported that cases of antisemitism on Canadian university campuses had risen by 80.2% from 2008 to 2009. The report notes that this statistic is "even more alarming given that the number of incidents has increased almost four-fold since 2006."<sup>138</sup> The report also noted the relationship on campuses, as in Canadian society more generally, of the level of antisemitic incidents to events in the Middle East. Specifically, the level of incidents intensified significantly during the war in Gaza in January 2009.<sup>139</sup> The 2010 Audit reported 86 antisemitic incidents on university campuses, down from the 2009 figure, but still a significant increase from the 36 reported incidents in 2006.<sup>140</sup>

The following represents a sample of some of the incidents that have occurred in connection with Canadian academic life in recent years:

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<sup>138</sup> Available online: <http://www.bnaibrith.ca/files/audit2009/MAINAUDITENG.pdf>.

<sup>139</sup> Available online: <http://www.bnaibrith.ca/files/audit2009/MAINAUDITENG.pdf>.

<sup>140</sup> Available online: <http://jewishtribune.ca/tribune/PDF/audit2010/ENAAudit2010.pdf>.

- In March 2010, a York University student was charged by police with running a virulently antisemitic website ([filthyjewishterrorists.com](http://filthyjewishterrorists.com)). He blames his troubles with the law on "Jewish Kikes."<sup>141</sup>
- In February 2010, during Israeli Apartheid Week, a threatening message was sent via Facebook to a Jewish student at the University of Western Ontario.<sup>142</sup>
- In September 2009, in Guelph, Ontario, antisemitic graffiti was scrawled on the door of a university campus residence where Jewish students lived.<sup>143</sup>
- In February 2009, it was reported that at York University, Jewish students who were involved with a petition to impeach student government were "barricaded" in the Jewish student lounge by a group of protesters. Police were called and the students had to be escorted out of the lounge to safety. On the way out, York University Student Daniel Ferman, who was involved in the incident, testified that he was called a "fucking Jew" and was told to "Die, Jew".<sup>144</sup>
- In January 2009, the Ontario branch of the Canadian Union of Public Employees brought forward a proposal to ban Israeli academics from teaching at Ontario Universities. In response to an appeal from the Palestinian Federation of Unions of University Professors and Employees, Sid Ryan, president of CUPE Ontario stated "we are ready to say Israeli academics should not be on our campuses unless they explicitly condemn

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<sup>141</sup> Available online: <http://jewishtribune.ca/tribune/PDF/audit2010/ENAAudit2010.pdf>.

<sup>142</sup> Available online: <http://jewishtribune.ca/tribune/PDF/audit2010/ENAAudit2010.pdf>.

<sup>143</sup> Available online: <http://www.bnaibrith.ca/files/audit2009/MAINAUDITENG.pdf>.

<sup>144</sup> Testimony of Daniel Ferman, November 16, 2009, p. 17.

the university bombing and the assault on Gaza in general," said Sid Ryan, president of CUPE Ontario.<sup>145</sup> This statement was removed shortly after it appeared and was replaced with a statement calling instead for a boycott "aimed at academic institutions and the institutional connections that exist between universities here and those in Israel."<sup>146</sup>

- In January 2009, university and college professors and employees in Quebec called for a boycott of Israeli academic institutions. This petition was signed by professors from Concordia University, McGill, Université de Québec à Montréal, Université de Montréal, and numerous other postsecondary institutions in Quebec.<sup>147</sup>
- In January 2009, Jewish students in Vancouver B.C. were chased and assaulted on campus.<sup>148</sup>
- In January 2009, *The Manitoban*, the student newspaper at the University of Manitoba, published an article that asked "Do you see the parallel between Palestinians in open prisons attacked with phosphorous bombs and Jews slaughtered in Nazi Germany?"
- At Queen's University, Hillel was forced to remove its "response wall," which was meant to be a space for people to share their feelings after walking through a Holocaust education display, due to the overwhelming

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<sup>145</sup> "Ontario union calls for ban on Israeli professors" National Post, Monday, January 5, 2009, <http://www.nationalpost.com/news/story.html?id=1144758>.

<sup>146</sup> "CUPE pulls Ryan proposal from union web site," National Post, January 14, 2009, <http://network.nationalpost.com/np/blogs/fullcomment/archive/2009/01/14/steve-janke-cupe-pulls-ryan-proposal-from-union-web-site.aspx>.

<sup>147</sup> Available online: [http://www.mcgailldaily.com/2009/02/academics\\_petition\\_for\\_israel\\_boycott/](http://www.mcgailldaily.com/2009/02/academics_petition_for_israel_boycott/) and <http://www.tadamon.ca/post/2827>.

<sup>148</sup> Available online: <http://www.bnaibrith.ca/files/audit2009/MAINAUDITENG.pdf>.

number of antisemitic remarks, including remarks denying the Holocaust.<sup>149</sup>

- On Holocaust Remembrance Day in 2009, the York University Free Press published cartoons featuring Israelis dressed as Nazis shooting Palestinians into a mass grave labelled “Gaza.” Another cartoon shows a dead Palestinian in a concentration camp wearing a prisoner’s uniform and a *keffiyeh*.<sup>150</sup>
- In 2008, the group at Queen’s University called Solidarity for Palestinian Human Rights reportedly had several cartoons posted on its Facebook page demonizing Israel. Two of the cartoons explicitly equated Jews with Nazis, while a third image showed Jews preparing to drink the blood of Palestinians – evoking the traditional antisemitic blood libel.<sup>151</sup>
- In November 2008, a Jewish student’s vehicle was defaced with several swastikas and the phrase “dirty Jew” written across the windows.<sup>152</sup>
- In April 2008, Natan Sharansky, a refusenik with the civil rights movement in Russia and Cabinet minister in Israel came to speak at York University and was shouted down and prevented from speaking.<sup>153</sup>
- In April 2008, public facilities on the University of Western Ontario campus were defaced with antisemitic graffiti.
- In March 2008, after an Israeli incursion into Gaza, the SPHR at Queen’s University placed a large banner in the student centre commemorating

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<sup>149</sup> Submissions of Queen’s University Hillel.

<sup>150</sup> Submissions of Hillel of Greater Toronto.

<sup>151</sup> Submissions of Queen’s University Hillel.

<sup>152</sup> Submissions of Queen’s University Hillel.

<sup>153</sup> Testimony of Zac Kaye, November 16, 2009, p. 16.

"Victims of the Gaza Shoah." *Shoah* is the Hebrew word for the Holocaust.<sup>154</sup>

- On March 10, 2008, immediately following a terrorist attack on an Israeli Yeshiva on March 10, 2008, the *Excalibur* at York University published an article that stated "It's no wonder why Yeshivat Merkaz Harav school was attacked," and went on to justify the attack based on the fact that the school had a curriculum which combined Talmudic studies with military service. Complaints from Hillel to the paper apparently did not prompt an apology for the offensive nature of the article.<sup>155</sup>
- In February 2008, "Death to Jews" was reportedly shouted repeatedly at an anti-Israel rally held on the McMaster University campus.<sup>156</sup>
- In 2007, Jewish students reported to Queen's University Hillel that their sociology professor had accused Canadian Jewish Organizations (such as the Canadian Jewish Congress) of a conspiracy to manipulate Canadian foreign policy. The professor later apologized.<sup>157</sup>
- In March 2004, the Queen's University Palestinian Human Rights association distributed literature portraying Jews with big noses and carrying large sacks of money. Controversy over the issue made it into the *Queen's Journal*, where the President of the club denied the antisemitic nature of the cartoon on the basis that "Palestinians are Semites too."<sup>158</sup>

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<sup>154</sup> Submissions of Queen's University Hillel.

<sup>155</sup> Submissions of Hillel Toronto.

<sup>156</sup> "No charges after year-long investigation of Mac rally" on the website of Maclean's On Campus, accessed on June 1, 2011, <http://oncampus.macleans.ca/education/2009/01/31/no-charges-after-year-long-investigation-of-mac-rally/>.

<sup>157</sup> Submissions of Queen's University Hillel.

<sup>158</sup> Submissions of Queen's University Hillel.

- The visiting Israeli consul-general was prevented by protesters from speaking at Simon Fraser University in British Columbia in 2004.<sup>159</sup>
- In March 2003, a student group, Solidarity for Palestinian Human Rights (SPHR), at York University reportedly included on its display table a yellow Star of David inscribed with slogans referring to ethnic cleansing.<sup>160</sup>
- In September 2002, violent protesters prevented former Israeli Prime Minister Benjamin Netanyahu from speaking at Concordia University in Montreal.<sup>161</sup>
- Ehud Barak, also a former Israeli prime minister, was subsequently prevented from speaking at Concordia based on the university's assessment that threats of further violence by anti-Israeli protesters would materialize.<sup>162</sup>

This is by no means a comprehensive list of recent incidents, and does not even include all incidents that were discussed during the Inquiry. Nevertheless, in addition to demonstrating the variety and severity of incidents on Canadian campuses, these incidents highlight a number of specific, troubling issues.

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<sup>159</sup> Prof. Alain Goldschläger, "The Canadian Campus Scene," from Manfred Gerstenfeld (ed.) *Academics against Israel and the Jews*, September 2008, available online: <http://www.jcpa.org/JCPA/Templates>ShowPage.asp?DRIT=3&DBID=1&LNGID=1&TMID=111&FID=624&PID=0&IID=2614&TTL=The Canadian Campus Scene>.

<sup>160</sup> Prof. Alain Goldschläger, "The Canadian Campus Scene," from Manfred Gerstenfeld (ed.) *Academics against Israel and the Jews*, September 2008, available online: <http://www.jcpa.org/JCPA/Templates>ShowPage.asp?DRIT=3&DBID=1&LNGID=1&TMID=111&FID=624&PID=0&IID=2614&TTL=The Canadian Campus Scene>.

<sup>161</sup> Prof. Alain Goldschläger, "The Canadian Campus Scene," from Manfred Gerstenfeld (ed.) *Academics against Israel and the Jews*, September 2008, available online: <http://www.jcpa.org/JCPA/Templates>ShowPage.asp?DRIT=3&DBID=1&LNGID=1&TMID=111&FID=624&PID=0&IID=2614&TTL=The Canadian Campus Scene>.

<sup>162</sup> Prof. Alain Goldschläger, "The Canadian Campus Scene," from Manfred Gerstenfeld (ed.) *Academics against Israel and the Jews*, September 2008, available online: <http://www.jcpa.org/JCPA/Templates>ShowPage.asp?DRIT=3&DBID=1&LNGID=1&TMID=111&FID=624&PID=0&IID=2614&TTL=The Canadian Campus Scene>.

Academic boycotts, such as those proposed by CUPE and a coalition of academics in Quebec, are a serious concern. The UK Inquiry received similar evidence regarding academic boycotts. The UK Report noted that though the motivations of boycotters may not be themselves antisemitic:

... the effect of their actions would be to cause difficulties for Jewish academics and students. The majority of those who have institutional affiliations to Israeli universities are Jewish, and thus the consequences of a boycott would be to exclude Jews from academic life.<sup>163</sup>

The UK Inquiry also found that the “singling out” of Israel was also a concern. Boycotts had not been suggested against other countries and discourse surrounding the boycott debate often moved beyond reasonable criticism into antisemitic demonization of Israel, using Nazi analogies and suggesting Israel was “a fascist state.”<sup>164</sup>

**The Inquiry Panel agrees with the conclusion of the UK Inquiry that “calls to boycott contact with academics working in Israel are an assault on academic freedom and intellectual exchange.”**

It is also clear that the visits of pro-Israeli speakers to Canadian campuses often serve as a flashpoint for conflict and, in some cases, harassment. The Inquiry Panel heard evidence that some Jewish students feel that their school administrations do not treat these visits consistently – failing to protect the ability of pro-Israeli lecturers to speak and providing greater access and protection of pro-Palestinian speakers, some of whom spread antisemitic viewpoints.

**We encourage universities to adopt clear and consistent guidelines aimed at protecting the security of speakers on campus**

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<sup>163</sup> All-Party Report, UK, p. 41.

<sup>164</sup> All-Party Report, UK, p. 40.

It is also evident that campus media has, at times, been used as a vehicle to promote antisemitic views.<sup>165</sup>

e. Israeli Apartheid Week

Canada has played a major role in the campus phenomenon known as Israeli Apartheid Week (IAW).<sup>166</sup> This event was first launched at the University of Toronto in 2005, and it now occurs on many university campuses across Canada and around the world.<sup>167</sup> The Inquiry Panel heard that these weeks are uniformly well-organized, aggressive campaigns designed to make the Jewish state and its supporters pariahs. According to Alvin Rosenfeld's testimony before the Inquiry Panel, in the past "we would say that's just kids, that's just political theatre ... but that was the old days... this is very well organized ... a national organization... funds and organizes Israeli Apartheid Week."<sup>168</sup>

Israeli Apartheid Week is sponsored by groups bound in common cause to demonize Israel as a Jewish homeland and they use campuses as their staging ground because the audiences are captive and the future leaders of our country are part of those audiences. The use of the term "apartheid" is, to use the language of the EUMC Working Definition of Antisemitism a "den[ial of] the Jewish people their right to self-determination ... by claiming that the existence of a State of Israel is a racist endeavour."

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<sup>165</sup> "HonestReporting Canada (HRC) denounces YU Free Press' Publication of 'Anti-Semitic' Cartoons" on the website of HRC, accessed June 1, 2011, [http://www.honestreporting.ca/news\\_article\\_name/987654yorku.aspx](http://www.honestreporting.ca/news_article_name/987654yorku.aspx).

<sup>166</sup> Dr. Manfred Gerstenfeld, "How to Fight the Campus Battle against Old and New Anti-Semites: Motifs, Strategies, and Methods," December 1, 2009. Available online: [http://www.jcpa.org/JCPA/Templates>ShowPage.asp?DRIT=3&DBID=1&LNGID=1&TMID=111&FID=624&PID=0&IID=2235&TTL=Online\\_Antisemitism\\_2.0\\_](http://www.jcpa.org/JCPA/Templates>ShowPage.asp?DRIT=3&DBID=1&LNGID=1&TMID=111&FID=624&PID=0&IID=2235&TTL=Online_Antisemitism_2.0_).

<sup>167</sup> "Past Israeli Apartheid Weeks" on the website of Apartheid Week, accessed April 2, 2010, <http://apartheidweek.org/en/pastapartheidweeks>.

<sup>168</sup> Testimony of Alvin Rosenfeld, November 16, 2009, p. 12.

The activities of IAW are also often associated with drawing comparisons of contemporary Israeli policy to that of the Nazis, and holding Jews collectively responsible for actions of the state of Israel. For examples, posters put up in early 2009 to promote IAW featured an Israeli helicopter bombing a helpless Palestinian child clutching a teddy bear, inside a concentration camp.<sup>169</sup> IAW is also occasionally associated with the use of “symbols and images associated with classic antisemitism.”

The Inquiry Panel heard evidence that during IAW, Jewish students are often afraid to be visibly Jewish on campus because they are wary of being harassed. Hillel of Greater Toronto submitted that:

At the University of Toronto, ‘Israeli Apartheid Week’ is the primary source of problems for Jewish students. The organizers and supporters of ‘IAW’ single out Israel from all other nations on earth, set a negative tone on campus, hold one-sided events with little academic merit, exclude Hillel students and staff from events, and typically flout school protocol regarding use of space on campus.<sup>170</sup>

The Inquiry Panel heard that IAW’s proponents have tended to hijack any open and honest dialogue regarding the Middle East and have fostered on various campuses a hostile, and sometimes unsafe environment – at least for identifiable Jews and advocates for Israel – that is antithetical to academic debate and devoid of the integrity and nuance that should govern the Canadian university system.

The Inquiry Panel heard from those who support Israeli Apartheid Week, and similar events, that any critique of their messages or tactics is an attempt to stifle free speech. For example, the submission of Abigail Bakan states that “there are indications of a chilly climate associated with free expression on university campuses in regard to

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<sup>169</sup> Submissions of Hillel of Greater Toronto.

<sup>170</sup> Submissions of Hillel of Greater Toronto.

defense of Palestinian human rights and critiques of Israel's policies and practices."<sup>171</sup> As explained below we do not intend to make such a recommendation.

We reject this argument. The Inquiry Panel heard no submissions calling for the shutdown of IAW. We note that Freedom of speech requires balance and the opportunity for both sides to be heard, a concession which IAW proponents seem less willing to make than their opposition.

**We recognize the complexity surrounding the issues in the Middle East, and the desire of many Canadians, especially on campus, to debate and propose solutions to those issues. We suggest that the best resolutions and recommendations for complex problems can only be developed through serious and rigorous debate, free of intimidation and threats.**

The Inquiry Panel finds that the concept of Israeli Apartheid Week, like the comparison of Israel to an apartheid state in general, is aimed at delegitimizing the State of Israel, and demonizing those who support it. Because of its sheer size and nature, we are concerned about the intimidating effect this experience has on Jewish students.

**We commend the Legislative Assembly of Ontario for passing a motion condemning Israeli Apartheid Week, and recommend that Canadian politicians openly condemn Israeli Apartheid Week on campus and the intimidation that it creates.**

**Because of our commitment to free speech, and to the maintenance of open discourse on university campuses, the Inquiry Panel does not think, despite the vulgarity of Israeli Apartheid Week, that it would be appropriate for university administrators to refuse to allow the event to take place. However, the Inquiry Panel does have a**

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<sup>171</sup> Submissions of Abigail Bakan.

**number of recommendations to protect the safety of Jewish and pro-Israeli students, which are listed at the end of this section.**

The Inquiry Panel heard that to this poisoned environment are added instances of abuse of the podium by faculty who feel at liberty to transfer their anti-Israel opinions to their students and to punish those whose views they do not share. As Professor Gil Troy argued: “I support academic freedom; I oppose educational malpractice... Unfortunately, that often happens when professors turn their lecterns into political soapboxes ... and their students feel harassed for disagreeing.”<sup>172</sup>

The Immediate Past President of Hillel at Queen’s University testified before the Inquiry Panel that at Queen’s University:

SPHR [Solidarity for Palestinian Human Rights], which runs Israeli Apartheid Week, allied with several professors and set up what were called checkpoints outside of several classrooms that would simulate going through a West Bank checkpoint ... a number of students, Jewish and non-Jewish ... felt that they had no possibility of opting out of these checkpoints because they were mandatory parts of their class. Some were specifically put on days when there were assignments due, so the students had to go to these classes. They felt they were being harassed, and they felt there was an abuse of podium going on.<sup>173</sup>

The Inquiry Panel heard that various departments sponsor a number of anti-Israel events on campus. For example, in 2009, the Canadian Studies department at Trent University was an official endorser of Israeli Apartheid Week at that school. Trent University Jewish Student Association (JSA) President Jason Wiseman explained the JSA’s position, stating:

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<sup>172</sup> Testimony of Dr. Gil Troy, December 7, 2009.

<sup>173</sup> Testimony of Immediate Past President, Hillel at Queen’s University, November 16, 2009.

It is our hope that programs which receive federal funds, such as the Canadian studies department, would be barred from using funds or the time of professors, to sponsor events which promote hate and intimidation of Jewish students on campus and do nothing to foster positive dialogue.<sup>174</sup>

f. Antisemitic Activity Advocated by Student Unions and Other Campus Groups

During his testimony before the Inquiry Panel, Dr. Fred Lowy, President Emeritus of Concordia University, explained that from 1999 to 2002, a group of “anarchist activist students ... effectively took over the student government of the University.” This group allied itself to a group of “activist Muslim students” and agreed to promote their causes, which included “targeting Jewish students and Jewish causes.” This escalated to what ended in a well-publicized riot that caused the cancellation of a speech by Israeli Prime Minister Benjamin Netanyahu in 2002. After that event the group was defeated in student government.

A number of submissions criticized the Ontario Public Interest Research Group (OPIRG) for what was perceived to be discriminatory actions against Jewish students. The Inquiry Panel heard that OPIRG-Ottawa refused to give support, in name or financially, to any events sponsored by Hillel Ottawa, because of their “relationship to apartheid-Israel and Zionist ideology.”<sup>175</sup> In her written submission to the Inquiry Panel, Miriam Stein quoted a letter OPIRG-Ottawa sent to Hillel Ottawa to indicate their concern:

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<sup>174</sup> Testimony of Trent University Jewish Student Association (JSA) President.

<sup>175</sup> Testimony of Miriam Stein, November 16, 2009, p. 18.

In Hillel Ottawa's mandate, it specifies that Hillel "... promotes the support of the Jewish state: The State of Israel." OPIRG-Ottawa views Hillel's steadfast support of Israel to be a position that alienates Palestinians and undermines respect for their personhood, mobility rights and basic human rights. Accordingly, OPIRG-Ottawa cannot formally endorse Hillel Ottawa or events sponsored by it. OPIRG-Ottawa bases its decision on Hillel's political support of Zionism, while it is open to working with Jewish organizations and other organizations that respect basic human rights for Palestinians.

We heard that a part of university students' mandatory fees are given to OPIRG to support its activities. At the University of Ottawa, students are able to opt out of paying this fee, and receive a refund, but only by requesting the refund from OPIRG representatives directly. We heard that this can be both burdensome and intimidating to Jewish students. Hillel of Greater Toronto testified that Students Against Israeli Apartheid, which sponsors and organizes Israeli Apartheid Week in Toronto, is a working group of OPIRG, despite OPIRG's mandate requiring it to be non-partisan.<sup>176</sup>

Judith Cohen, a York University Music Professor and member of CUPE 3903 unit 2, which represents non-tenured professors and teachers' aides at York University, also noted in her written submission that her local contributes significant resources to protesting against so-called Israeli "apartheid" but "does not designate ... Muslim states with histories of repression of other religions, as apartheid, this seems in fact to be an instance of antisemitism masquerading as concern for human rights."

The Inquiry Panel also received testimony about the Canadian Federation of Students (CFS), which proposed a motion in 2007 to implement a national boycott of Israel.<sup>177</sup>

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<sup>176</sup> Submissions of Hillel of Greater Toronto.

<sup>177</sup> Submissions of the Canadian Federation of Jewish Students.

The Inquiry Panel is concerned about the impact these representative organizations have on their Jewish members, many of whom do not have a choice but to belong and financially contribute to them.

g. View of Campus Administrators

The Inquiry Panel sent invitations to the presidents of 25 major Canadian Universities, or their representatives, to appear before us. Unfortunately, many of them declined this invitation. Among those who agreed to testify, there were differences in how they perceived the problem of antisemitism on their campuses, as well as in their vision of how administrations should respond to it. Most shared the view of Fred Lowry, the past president of Concordia, "that by and large ... most Canadian universities are safe."<sup>178</sup>

Of the representatives of campuses which have had significant problems with antisemitism in recent years, some were more willing than others to recognize that a problem exists on their campuses. For example, in his testimony before the Inquiry Panel, Ryerson University President Sheldon Levy articulated steps that his institution's administration had taken to create a more inclusive campus. He noted that "for 99% or some very large number of people, these are not issues. We have to never let them becomes issues by not accepting the one percent, because the one percent will grow if one tolerates intolerance."<sup>179</sup>

In some cases, there appeared to be a disconnect between what was reported to the Inquiry Panel by students who had first-hand experience of incidents of antisemitism on campus, and administrators, some of whom denied that there was any problem. For

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<sup>178</sup> Testimony of Fred Lowy, November 25, 2009, p. 3.

<sup>179</sup> Testimony of Sheldon Levy, November 24, 2009, p. 6.

example, one representative claimed that the extent of Israeli Apartheid Week was a small out-of-the way information table and two poorly attended events.<sup>180</sup> This ran contrary to the evidence by students at this same school that IAW is the primary source of problems for Jewish students, and that it sets a “negative tone on campus.”<sup>181</sup>

We agree with Dr. Lowy and Dr. Levy, that Jewish students on most Canadian campuses are safe and do not experience generalized antisemitism in their daily lives on campus. However, we also agree with Dr. Levy, in that administrators have a responsibility to act even if only 1% of their population is affected.

We are concerned that by failing to recognize that there is a problem on their campuses, some university administrators are failing in their duties to protect all students. We find this especially problematic because on the one hand, administrators were eager to claim an absence of antisemitism on their campuses, but on the other hand they exhibited little knowledge about the events we have understood tend to spark the most antisemitism.

One witness testified that, with reference to posters for IAW that portrayed Israel as a child killer, she had been at meetings with university administrators who had no idea what kind of material was being distributed on campus.<sup>182</sup>

The Inquiry Panel supports the steadfast position administrators have taken on freedom of expression on university campuses, and agrees that it is their job to “teach our students how to participate in deep and intimate conflicts with mutual respect.” It disagrees, however, that they are living up to this job requirement. Instead, it seems that some administrators are ignoring the problems on their campuses thereby

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<sup>180</sup> Testimony of Robert Steiner.

<sup>181</sup> Submissions of Hillel of Greater Toronto.

<sup>182</sup> Testimony of Ruth Klein, November 30, 2009, p. 19.

tolerating an environment where intimidation is employed as a tool to silence opposing opinions.

**We assert that on a limited number of university campuses, antisemitism is a serious problem of which, taking the most charitable view, some university administrators are unaware. At the other extreme, the Inquiry Panel is concerned that some administrators are, in fact, aware of the extent to which antisemitism exists on their campuses, but are unwilling to admit this fact or to take the steps needed to eliminate it.**

**Furthermore, the Inquiry Panel commends the work of Dr. Sheldon Levy, President of Ryerson University, who has taken bold steps to combat antisemitism and all forms of racism at his University.**

**h. Remedies**

Universities have a responsibility to uphold the rights to free and critical academic inquiry and to free political expression that have so long been a feature of the university experience. The Inquiry Panel recognizes that by doing so, universities serve the broader polity through the introduction of new ideas and theories concerning the world around us. However, the Inquiry Panel also concludes that these rights must be balanced with the responsibility of ensuring academic rigour in both research and teaching and with the provision of a learning environment in which all students feel safe and accepted and able to focus on their studies.

Therefore, we recommend that university administrators and professors:

- **First and foremost protect the safety of students by implementing and enforcing strict student codes of conduct, which among other things, prohibit and enforce academic (or legal) penalties for harassment of other students.**

**They must also ensure that proper security and police are allowed to monitor events that have potential to turn violent;**

- **Designate certain “student spaces” on campus which should be reserved as a sanctuary from advocacy for various causes;**
- **Protect the equal right to freedom of speech for all students, by applying the same standards to both pro- and anti-Israel events and promoting academic discourse on campus;**
- **Exercise their own rights of free speech, and their responsibilities as academics by condemning discourse, events and speakers which are untrue, harmful, or not in the interest of academic discourse, including Israeli Apartheid Week;**
- **We recommend that student unions operate in the interest of the broad campus community;**
- **We recommend that the Federal Government and/or the Inquiry consider offering assistance sponsoring conferences and other similar initiatives, or the issuance of statements of principle to help combat hate on campus;**
- **We recommend that the Federal Government and/or the Inquiry work with the provinces to help administrators develop suitable tools and structures to deal with this burgeoning problem in an effective and principled manner;**
- **We recommend that students be permitted to opt-out of non-union organizations that take positions on partisan issues;**
- **We further recommend that when student fees are automatically directed to campus organizations, that students be able to opt-out of such fees online and prior to paying them, rather than in person and by way of refund;**

- We recommend that university administrations support programs aimed at elevating the academic discourse surrounding contentious issues and fostering programs aimed at achieving real dialogue; and
- We recommend that professors be held accountable for academic rigour of their curricula.

#### IV. APPROACHES TO ADDRESSING ANTISEMITISM

##### A. Legal Approaches

###### a. Criminal Prosecution of Hate Speech

One of the most contentious issues presented to the Inquiry Panel focused on the role of criminal and human rights codes in dealing with hate speech in general and antisemitism in particular. This matter forms part of a larger discussion on the extent to which hateful speech can or should be criminalized. The Inquiry Panel affirms that the *Criminal Code* can serve a useful purpose in dealing with extreme manifestations of antisemitism.

Some written and oral submissions argued in favour of more aggressive prosecution of incitement to hatred, especially when advocated on the internet. For example, Allan Adel of B'nai Brith argued that "Canadian legislation should be strengthened to increase effectiveness in countering hate on the internet and to close potential loopholes that could jeopardize successful prosecutions."<sup>183</sup> More broadly, the Canadian Jewish Congress recommended that the "existing statutory 'fence of protection' both in the

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<sup>183</sup> Submissions of Allan Adel, League for Human Rights of B'nai Brith Canada.

*Criminal Code* and in human rights legislation be reaffirmed and, where appropriate, strengthened.”<sup>184</sup>

Some testimony opposed hate speech laws altogether, on civil libertarian grounds. For example, Kenneth Marcus argued:

Even biased and hateful statements contain elements that need to be protected. But ... there are many things that can be done to rebut biased, hateful or simply wrongheaded and illegitimate approaches that have no ramifications for the suppression of speech. The first is to speak out against it, and I think university officials and public leaders should do so.<sup>185</sup>

#### **b. Prosecution of Hate Crimes**

As explained by the Honourable Andrew Swan, Minister of Justice and Attorney General of Manitoba, there are two provisions of the *Criminal Code* that require the authorization of the Attorney General prior to the laying of charges – s. 318, the advocating of genocide, and section 319(2), wilfully promoting hatred against an identifiable group. There are also other provisions requiring the Attorney General to authorize a request for a warrant to seize hate propaganda.<sup>186</sup>

The Inquiry Panel heard some evidence that it can be difficult for the Crown to prove that an accused was motivated by hate, which is necessary to secure a conviction.<sup>187</sup> There has generally been greater success in dealing with incidents as regular criminal

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<sup>184</sup> Submissions of the Canadian Jewish Congress.

<sup>185</sup> Testimony of Professor Kenneth Marcus, November 16, 2009, p. 12.

<sup>186</sup> Testimony of the Hon. Andrew Swan, February 8, 2010, p. 3.

<sup>187</sup> Testimony of Detective Sergeant Monica Christian, December 8, 2009, p. 11.

offences and asking for enhanced penalties under s. 718 of the *Code*, which includes sentencing enhancements for crimes motivated by hate.<sup>188</sup>

Detective Sergeant Monica Christian of the Ottawa Police Service's Hate Crime Unit testified that the system requiring prior approvals impedes officers from using "on-the-spot" judgment.<sup>189</sup> Julian Fantino, former Commissioner of the Ontario Provincial Police, testified that police should be "liberated" from the requirement of seeking prior approval to prosecute a hate crime case.<sup>190</sup>

On the other hand, the Inquiry Panel recognizes that while, as Commissioner Fantino pointed out, officers are routinely trusted to lay charges for serious crimes without prior approval, including for murder, there may be good policy reasons for requiring prior approval. The stigma associated with being charged with a hate crime and the relatively high profile nature of such cases, may be one such consideration.

**The Panel supports the continued use of the *Criminal Code* to combat manifestations of hate- and bias-motivated crime.**

**The Inquiry Panel finds that evidence respecting the difficulty in prosecuting hate crimes is of concern and merits further study.**

c. Human Rights Legislation

Federal and provincial human rights commissions allow recourse to those who believe themselves to be victims of non-criminal forms of behaviour that is antisemitic or discriminatory. Such prohibited behaviour includes discrimination in employment or

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<sup>188</sup> Testimony of Detective Sergeant Monica Christian, December 8, 2009, p. 19.

<sup>189</sup> Testimony of Detective Sergeant Monica Christian, December 8, 2009, p. 11.

<sup>190</sup> Testimony of Julian Fantino, December 8, 2009, pp. 17-18.

housing. Section 13 of the *Canadian Human Rights Act* prohibits the promotion of hatred.

The debate over whether to strengthen, roll back, or even abolish section 13 of the *Human Rights Act* and other aspects of Canada's hate speech laws is not, primarily, a debate about antisemitism. Rather, it is an aspect of the ongoing debate as to what degree, in the service of reducing hate speech, it is desirable to restrict free speech, or the extent to which it remains constitutionally permissible to do so under the *Charter of Rights*.

**The Inquiry Panel notes that the constitutionality of Section 13 will be decided by the Federal Court of Canada in *Lemire v. Warman*. Because of this fact, and because opinion was so profoundly split in the testimony presented to us, the Inquiry Panel declines to make any specific policy recommendations on this issue.**

**d. Legal Approaches to Addressing Hate on the Internet**

The Inquiry Panel recognizes that the proliferation of hate on the Internet is one of the most concerning and difficult challenges to the fight against antisemitism. This issue is discussed in greater detail elsewhere in this report.

The Inquiry Panel recognizes that there is an important need for inter-jurisdictional cooperation in order to address Internet hate through legal means.

**e. Hate Crime Units and Training of Police Officers**

Superintendent Mike Burns of the Halifax Regional Police indicated that "Hate crime and specific antisemitic behaviour are difficult crimes for police to identify, investigate,

and prosecute.”<sup>191</sup> Indeed, Detective Dan Dunlop of the Ottawa Police Hate Crimes Unit stated that hate or bias crimes often go unrecognized.<sup>192</sup> A number of witnesses emphasized the importance of better educating and equipping front-line officers with the expertise to identify hate crimes.<sup>193</sup> Superintendent Burns also noted that the forecast of significant personnel turnover in the next decade due to retirement reinforces the need for appropriate training programs.<sup>194</sup> He stated:

Education in relation to the dynamics of hate-based crime and the human impact of antisemitism is an essential police skill set if we as a police community are to competently identify, investigate, and prosecute such criminal behaviour. A police officer properly informed on the relevant issues will be better equipped to engage the public in community-based solutions to decrease community fear and tension.<sup>195</sup>

The Saskatoon<sup>196</sup>, Vancouver<sup>197</sup> and York Region Police Services<sup>198</sup> send officers to the “Tools for Tolerance” program run by the Simon Wiesenthal Center in Los Angeles. The Panel recognizes the value in programs like *Tools for Tolerance* in training officers in responding to hate crimes.

The Panel learned that police services that employed hate crimes units, or individuals specifically responsible for responding to hate crimes did a better job of correctly and consistently identifying and categorizing hate crimes than those who did not.<sup>199</sup>

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<sup>191</sup> Testimony of Superintendent Mike Burns, February 8, 2010, p. 33.

<sup>192</sup> Testimony of Detective Dan Dunlop, December 8, 2009, p. 10.

<sup>193</sup> Testimony of Detective Sergeant Monica Christian, December 8, 2009, p. 11; Testimony of Commissioner Julian Fantino, December 8, 2009, p. 11.

<sup>194</sup> Testimony of Superintendent Mike Burns, February 8, 2010, p. 33.

<sup>195</sup> Testimony of Superintendent Mike Burns, February 8, 2010, p. 33.

<sup>196</sup> Testimony of Chief Clive Weighill, February 8, 2010, p. 32.

<sup>197</sup> Testimony of Inspector John de Haas, February 8, 2010, p. 21.

<sup>198</sup> Testimony of Chief Armand La Barge, February 8, 2010, p. 30.

<sup>199</sup> Municipalities and provinces that include hate crimes units or officers include: the British Columbia Hate Crime Team, Vancouver’s Diversity and Aboriginal Policing Section, Alberta’s Hate and Bias

Deputy Chief Ken Leenderste of the Hamilton Police Service noted the important role of the hate crime unit in supporting victims of crime, and in liaising with communities to "curb the escalation of social tension that can destroy communities."<sup>200</sup> Hate crime units can work with community organizations to encourage the reporting of hate and bias incidents, which are recorded whether or not they constitute a crime. The Calgary Police Force for example, has a program aimed at junior and senior high school students called "Hate - Don't Buy In". The program helps give students the knowledge they need to address hate/bias-related incidents and to protect themselves from becoming targets.<sup>201</sup>

**The Inquiry Panel recommends that police forces across Canada send their officers to the "Tools for Tolerance" program at the Simon Wiesenthal Center for hate crimes training.**

**f. Customs and Immigration**

The Inquiry Panel heard little about the use of customs and immigration remedies to prevent the importation of antisemitism into Canada. We consider this relative silence to be an indication that these remedies are functioning in a satisfactory fashion.

Customs and immigration statutes and regulations are useful tools to stop the spread of antisemitism in Canada. The *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 provides that a foreign national is inadmissible on grounds of criminality if he or she is found to have committed an act or offence outside of Canada, or upon entry, that would

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Coordinator, the Calgary Police, Hamilton Police Hate Crime Officer, York Regional Hate Crime Unit, Toronto Police Hate Crime Unit, Ottawa Police Hate Crimes Unit, Ontario Municipal Hate Crimes Team. Because of its size the Saskatoon Police does not have a hate crimes unit or officer, but it does charge one officer with the portfolio of responding to hate crimes when they occur (they report no incidents in the past two years).

<sup>200</sup> Testimony of Deputy Chief Ken Leenderste, February 8, 2010, p. 22.

<sup>201</sup> Testimony of Deputy Chief Murray Stooke, December 8, 2009, p. 14.

constitute an indictable offence in Canada.<sup>202</sup> Wilfully promoting hatred against an identifiable group is an indictable offence.<sup>203</sup> The facts that constitute immigration inadmissibility under this provision include facts for which there are reasonable grounds to believe that they have occurred or may occur.<sup>204</sup>

On this basis, an individual may be denied entry to Canada because there are reasonable grounds to believe that the person may engage in antisemitic activity. A person may be deported from Canada on the basis that there are reasonable grounds to believe that the person has engaged in antisemitic activity.

The security certificate provisions of the *Immigration and Refugee Protection Act* are also available. A person may be denied entry or removed on the basis that the person poses a danger to the security of Canada;<sup>205</sup> although such a person can nonetheless enter or stay in Canada if the person satisfies the Minister that his or her presence in Canada would not be detrimental to the national interest.<sup>206</sup>

Customs law has similar standards. The *Customs Tariff*, S.C. 1997, c. 36 and Consolidation prohibit the importation of:

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<sup>202</sup> Section 36(2) provides:

(2) A foreign national is inadmissible on grounds of criminality for  
(a) having been convicted in Canada of an offence under an Act of Parliament punishable by way of indictment, or of two offences under any Act of Parliament not arising out of a single occurrence;  
(b) having been convicted outside Canada of an offence that, if committed in Canada, would constitute an indictable offence under an Act of Parliament, or of two offences not arising out of a single occurrence that, if committed in Canada, would constitute offences under an Act of Parliament;  
(c) committing an act outside Canada that is an offence in the place where it was committed and that, if committed in Canada, would constitute an indictable offence under an Act of Parliament; or  
(d) committing, on entering Canada, an offence under an Act of Parliament prescribed by regulations.

<sup>203</sup> Section 319(2).

<sup>204</sup> Section 33.

<sup>205</sup> Section 34(1)(d).

<sup>206</sup> Section 34(2).

Books, printed paper, drawings, paintings, prints, photographs or representations of any kind that ... constitute hate propaganda within the meaning of subsection 320(8) of the Criminal code.<sup>207</sup>

Challenging the denial of entry of items that allegedly constitutes hate propaganda is subject to a special provision within the *Customs Tariff*. Determinations are to be undertaken by the relevant provincial or territorial superior court instead of the Canadian International Trade Tribunal.<sup>208</sup>

The Inquiry Panel concludes that the current customs and immigration remedies are a useful component in the arsenal of legal tools to combat the spread of antisemitism in Canada. These laws should continue to be invoked in appropriate cases.

The Inquiry Panel further notes that Canada's immigration laws have a role to play in providing refuge to those who are fleeing antisemitism in other countries.

In her testimony before the Inquiry Panel, Shelley Faintuch, the Community Relations Director of the Jewish Federation of Winnipeg articulated her belief that "Canada will be facing an increasing number of immigration claims because of the rise in antisemitism, particularly in Europe and countries like Venezuela.<sup>209</sup> Based on the volume of testimony we received about rising antisemitism internationally, especially when compared to Canada, we echo Ms. Faintuch's sad prediction.

In his testimony before the Inquiry Panel, Canadian Minister of Citizenship and Immigration, the Honourable Jason Kenney, explained that Canada's *Immigration and Refugee Protection Act* has a special designation of "source country" which allows the government to "recognize certain people ... as refugees for resettlement purposes." He

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<sup>207</sup> Act section 136(1) and Tarriff Item, 9899.00.00.

<sup>208</sup> Act, section 71(1).

<sup>209</sup> Testimony of Shelley Faintuch, November 30, 2009, p. 14.

offered to review a list of countries that could be added to the list of source countries. The Inquiry Panel did not receive enough testimony to enable it to recommend specific countries to be added to the list.<sup>210</sup>

We recommend that the Department of Citizenship, Immigration and Multiculturalism review, and take into consideration rising international antisemitism when designating source countries and targeting specific countries/people for resettlement.

**g. Limits of Legal Approaches**

While legislation and law enforcement approaches are important and necessary components of the fight against antisemitism, there is a limit to how far these strategies may go in addressing the problem of antisemitism.

Some of these limits arise from the manner in which the laws are enforced. Rabbi Andrew Baker, the Personal Representative, OSCE Chairman-in-office on combating antisemitism and Director of International Jewish Affairs, of the American Jewish Committee argued both in his written submission and in his oral testimony that legislation to punish hate speech can be ineffective or even harmful:

From what I've observed, my sense is that legislation often does not work. It may exist but it is not uniformly or frequently imposed. In some cases where court examinations have been brought, the length of time between bringing a case and reaching some settlement can often be months or even years. Penalties, when penalties are applied, may be so limited as to really not be a deterrent. And I think in some countries, the mere fact that you have a legal process has

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<sup>210</sup> Testimony of Hon. Jason Kenney, February 8, 2009, p. 18.

allowed political leaders to be quiet, whether by choice or whether by law, to be able to say this is now a matter for the prosecutor, a matter for the courts, and they won't speak. I think we need to do more to determine the best ways of dealing with this hate speech.<sup>211</sup>

In light of these limitations, Rabbi Baker noted that "most of us recognize a critical element is for political leaders, civil leaders, to speak clearly, loudly, and swiftly to make such expressions taboo, as best they can".<sup>212</sup>

More fundamentally, though, the Inquiry Panel recognizes that the law has a limited ability to address the roots of this form of prejudice. In the words of Rabbi Reuven Bulka:

The law can address an evil, but it can't change the fibre of society. I hope the general approach of this very important committee will be to develop a strategy that will minimize the likelihood of antisemitism rearing its ugly head, not because the law says you can't but because people won't want to. They won't want to because it will be totally unacceptable; people will appreciate each other, and this will not be part of their conversation. Laws in this area are necessary, obviously, for the same reasons other laws are. ...We're not going to get that far with [a purely legal] approach; we'll just basically address the hatemongers who are out in the open and who are apprehended, but we won't really get to the question of what we're doing to build the Canada of tomorrow that our children and grandchildren will be happy to live in.<sup>213</sup>

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<sup>211</sup> Testimony of Rabbi Andrew Baker, November 23, 2009, p. 20.

<sup>212</sup> Testimony of Rabbi Andrew Baker, November 23, 2009, p. 20.

<sup>213</sup> Testimony of Rabbi Reuven Bulka, November 30, 2009, p. 10.

**The Inquiry Panel believes that non-legal strategies, such as those including education and inter-cultural dialogue discussed below, are crucial and equally important strategies to fighting antisemitism.**

### **B. Security Initiatives**

The Inquiry Panel heard that Jewish communities in Canada often have to implement extra security measures in order to protect themselves from external threats. The heightened threats to Canadian Jewish institutions have paralleled world events and the rising tide of global antisemitism. As explained by Rabbi Reuven Bulka:

All that changed in 1991, around the time of the Gulf War. It was a watershed. We started getting threatening calls. I myself had my life threatened, and we had to start doing what many other synagogues across Canada had to do, which was basically to lock our doors and put in a system that required you to identify yourself before you entered. We have security in place that is costing us, who can ill afford it, thousands of dollars a year just to protect our membership. This is not the Canada that I came to in 1967. It's sad that this is the case, but, unfortunately, it is the case.<sup>214</sup>

In 2005, Doron Horowitz was hired as the Director of Community Security for the United Jewish Appeal Federation of Greater Toronto. The Inquiry Panel heard that he is one of five such professionals in North America, whose sole job is protecting Jewish communities from violent crime.<sup>215</sup>

Hiring a security expert is not a viable option for smaller communities in Canada, even though they still face threats of violence. Many synagogues, community centres and

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<sup>214</sup> Testimony of Rabbi Reuven Bulka, November 30, 2009, p. 5.

<sup>215</sup> Testimony of Doron Horowitz, December 8, 2009, pp. 2-3.

Jewish day schools employ security guards to act as a deterrent against physical violence.<sup>216</sup>

In 2007, the Department of Public Safety implemented the Security Infrastructure Pilot Program in response to a number of minority communities expressing concern about their vulnerability to hate crimes. The program helps vulnerable communities to finance security assessments and improvements to their facilities.<sup>217</sup>

The Inquiry Panel heard that the Security Infrastructure Pilot Program has helped targeted minorities to implement the necessary precautions to protect themselves,<sup>218</sup> and that this program is strongly endorsed by national organizations such as the Canadian Jewish Congress. Based on this evidence, the Inquiry Panel concludes that the Community Security Pilot Program was a successful initiative.

**We recommend that the Security Infrastructure Pilot Project be made permanent with sustainable funding for the Jewish and other at-risk communities to upgrade security at community institutions in the face of the contemporary threats of violence.**

### C. Research

The Inquiry Panel heard that there is a significant need for academic research into antisemitism.<sup>219</sup> Dr. Charles Small's research centre at Yale University in the United States is the first and only North American university research centre examining the

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<sup>216</sup> Submissions of Calgary Jewish Community Council and submissions of Canadian Jewish Congress, Ontario Region.

<sup>217</sup> Testimony of Hon. Jason Kenney, February 8, 2010, p. 12.

<sup>218</sup> Testimony of Kristina Namiesniowski, December 8, 2009, pp. 1-2.

<sup>219</sup> See, for example, Testimony of Dr. Manfred Gerstenfeld, November 16, 2009, p. 2; Testimony of Kenneth Marcus, November 16, 2009, p. 9.

phenomenon of antisemitism. Dr. Small testified that there is a “void” in this area of research more generally.<sup>220</sup>

The Inquiry Panel agrees with Dr. Manfred Gerstenfeld, Director of the Post-Holocaust & Antisemitism Program, Jerusalem Center for Public Affairs, that Canada could play an important role in undertaking research into antisemitism and could become an international leader in the field. As he noted, Canada became an international leader in the field of national Jewish studies when the government of the day funded chairs in Canadian Jewish studies at both Concordia University and York University.<sup>221</sup> These institutions may be ideally situated to house research centres specializing in the study of antisemitism.

**We recommend that the government provide seed money to establish a Canadian academic research centre for the study of antisemitism, to be housed within a Canadian university.**

#### **D. Education**

Many witnesses testified about the importance of education as a tool to combat antisemitism. The Inquiry Panel agrees with witnesses who emphasized the importance of early exposure to such education in schools. As expressed by Rabbi Reuven Bulka:

How do we counter antisemitism? To me, the very simple answer is teach, teach, teach. ...

We need to create foot soldiers, and those foot soldiers are the children of the

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<sup>220</sup> Testimony of Dr. Charles Small, November 2, 2009, p. 20.

<sup>221</sup> Testimony of Dr. Manfred Gerstenfeld, November 16, 2009, p. 2.

next generation. We owe it to them. We owe it to the legacy of our founding fathers and mothers that children going through any elementary or high school system will have been so inoculated against hate by the time they get to university that when they see it, they will reject it.<sup>222</sup>

The Inquiry Panel agrees with the many witnesses who testified as to the importance of incorporating Holocaust education into school curricula.<sup>223</sup> The Panel supports and commends Canada's participation, alongside 26 other countries, on the International Task Force for Holocaust Education, Remembrance, and Research. We also recognize the contribution of programs such as the Asper human rights Holocaust program<sup>224</sup> and Fighting Antisemitism Together (FAST), which has developed, in conjunction with the Canadian Jewish Congress, educational materials on antisemitism for children in grades 6, 7, and 8. The FAST program has now been delivered to more than 500,000 children across Canada.<sup>225</sup>

The Inquiry Panel concludes that media literacy education is an important and effective method to prevent the spread of hate dialogue and youth recruitment by hate groups through the Internet.<sup>226</sup>

**The Panel recommends that schools across Canada develop and implement media intervention programs to help youth develop the critical thinking skills to be able to identify, reject and report hate media on the Internet.**

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<sup>222</sup> Testimony of Rabbi Reuven Bulka, November 30, 2009, p. 5.

<sup>223</sup> See, for example, Testimony of Mr. Navid Khavari, November 23, 2009, p. 5; Testimony of Yehuda Bauer, November 16, 2009, p. 8.

<sup>224</sup> Testimony of Shelley Faintuch, November 30, 2009, p. 14.

<sup>225</sup> Testimony of Tony Comper, December 1, 2009, p. 2.

<sup>226</sup> Testimony of Matthew Johnson, December 1, 2009, p. 3.

A number of witnesses emphasized the importance of newcomer education, especially in light of the fact that some immigrants may come from countries where old prejudices about Jewish people are commonplace.

**The Inquiry Panel agrees with the recommendations of Reverend Majed El Shafie and Mr. Fo Niemi that human rights should form a part of newcomer education, which could be combined with language training programs.<sup>227</sup>**

#### **E. Inter-Faith and Inter-Community Initiatives**

The Inquiry Panel concludes that inter-community dialogue has an important role to play in building relationships and trust among Canada's various religious communities. As stated by Mark Freiman, President of the Canadian Jewish Congress:

All the indications of racial prejudice and hatred seem to demonstrate—this is a point that brings together much of the discussion we've had today—that the more you know the object of prejudice, the less likely you yourself will be prejudiced. Prejudice and hatred are highest in communities and among individuals who know the least about the target community.<sup>228</sup>

The Inquiry Panel commends local faith-based initiatives, such as those organized by Father John Walsh of St. John Brébeuf Parish of Montreal, where Holocaust survivors are invited to speak at his church and evenings of prayer are held with participants from many faiths, including Jews, Christians, Muslims, Hindus, Sikhs, and Buddhists.<sup>229</sup>

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<sup>227</sup> Testimony of Reverend Majed El Shafie, November 30, 2009, p. 11; Testimony of Mr. Fo Niemi, December 1, 2009, p. 10.

<sup>228</sup> Testimony of Mark Freiman, December 7, 2009, p. 11; Testimony of Father John Walsh, November 30, 2009, p. 4.

<sup>229</sup> Testimony of Father John Walsh, November 30, 2009, p. 7.

The Inquiry Panel agrees with the Canadian Ethnocultural Council (CEC) that “one of the most important means in combating hate, in general, and antisemitism, in particular, is by providing opportunities for diverse ethnocultural communities to meet regularly, build relationships, learn and understand from each other, discuss issues of mutual concern, and support one another.”<sup>230</sup> The Inquiry Panel heard evidence that the CEC serves as a forum for dialogue for diverse ethnocultural populations in Canada, where member organizations collaborate and share ideas and concerns affecting their communities.<sup>231</sup> The Panel concludes that through their work, organizations such as the CEC may play an important role in the fight against antisemitism and intolerance.

Based on all the evidence, the Inquiry Panel concludes that inter-faith and inter-community dialogue is particularly important between the Jewish and Muslim communities. The Inquiry Panel concludes that the government has a role to play in creating institutional structures to bring together political and community leaders from across this country, including representatives from the Jewish and Muslim communities. For example, in his testimony, Minister Jason Kenney informed the inquiry panel about the Somali-Jewish Mentorship Project: “It is bringing together young Canadians of Somali origin—many of them grew up in refugee families and have faced social exclusion and had very limited opportunities—typically with professions and businesses owned by Jewish Canadians, many of whose grandparents or parents arrived here as refugees with nothing and faced discrimination and persecution as well.”<sup>232</sup>

The Inquiry Panel heard evidence about an innovative group in British Columbia called “Peace it Together,” which was started by a Jewish Canadian woman from Montreal

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<sup>230</sup> Testimony of Peter Ferreira, November 30, 2009, p. 6.

<sup>231</sup> Testimony of Dominic Campione, November 30, 2009, p. 6.

<sup>232</sup> Testimony of Minister Jason Kenney, February 8, 2010, p. 12.

and a Palestinian Canadian man from Vancouver. The organization recruits senior Israeli, Palestinian and Canadian high-school students to participate in a "peace camp" in Vancouver, for peace studies, making films addressing issues relating to the Middle East.<sup>233</sup> We support creative youth-focused initiatives, such as this one, and believe that such initiatives can have a lasting impact on cross-cultural understanding.

**The Inquiry Panel concludes that the promotion of dialogue and community cohesion is crucial to combating antisemitism and that the federal government has a role to play in the creation of formal structures to facilitate and promote this dialogue among community leaders.**

**We also adopt the recommendation of the UK Inquiry Panel that "the Jewish and Muslim communities and interfaith groups promote joint leadership programs for young Muslims and Jews."**

#### **F. The United Nations**

A number of witnesses expressed concern about disproportionate condemnation at and by the United Nations of Israel as compared to other countries. This was exemplified by the 1975 UN General Assembly resolution equating Zionism with racism. Though the resolution was repealed, Zionism is still frequently equated with racism now, both domestically and in international forums, notably at the World Conference against Racism at Durban in 2001 and its NGO Forum. The Inquiry Panel heard that Canada can play an important role in either combating or contributing to this problem, through its votes in the United Nations.

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<sup>233</sup> Testimony of Hon. Stephen Owen, January 25, 2010, pp. 12-13.

The UN Human Rights Council is the greatest example of the singling out of the Jewish people and the Jewish State on the international stage.

In the five years of its existence, the council has adopted 35 condemnatory resolutions on Israel, and little over a dozen for the rest of the world combined. That translates into roughly 70 percent of the council's moral outrage being deployed to demonize and delegitimize the only democracy in the Middle East. All of these resolutions on Israel have been one-sided condemnations that grant impunity to Hamas and Hezbollah terrorists, and to their state sponsor, the Islamic Republic of Iran.<sup>234</sup>

The Inquiry Panel commends the Government of Canada for its recent stance, distancing itself from the one-sided condemnations of Israel at the United Nations, and affirms that sometimes standing out against a consensus is preferable to joining one.

**The Inquiry Panel recognizes that the work of the United Nations in relation to Israel is beyond the purview of this report, and therefore recommends that the Committee of Foreign Affairs of the House of Commons undertake a study of the equity of the United Nations Human Rights Council, particularly regarding its over-emphasis of alleged human rights abuses by Israel, while ignoring flagrant human rights abuses of other member states.**

**We recommend that the Government of Canada spearhead initiatives to reform the International Human Rights regime.**

**We recommend that the government move quickly to ratify and/or enact the various international instruments dealing with antisemitism (including international commitments to combat antisemitism and Holocaust denial, including but not limited to, the Berlin Declaration on the Organization for Security and Cooperation**

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<sup>234</sup> Testimony of Hillel Neuer, Executive Director of UN Watch, January 25, 2011.

in Europe (OSCE) and similar UN resolutions) and prepare constructive suggestions and resolutions befitting its role as host for the 2011 conference.

We recommend that political and diplomatic leaders take up their special obligation to challenge expressions of antisemitism and threats of genocide in the international arena, including the rejection of such statements by foreign leaders, foreign diplomats and representatives at international forums such as the UN and through international conventions and protocols to which Canada is a signatory.

We recommend the creation of a permanent, publicly accessible “ambassadorial” position under the auspices of the most appropriate Department (Foreign Affairs, Justice, Multiculturalism) to develop and implement policies, projects and research on combating antisemitism, including the provision of funds to NGOs to further these aims.<sup>235</sup> This office should also monitor implementation of priority recommendations and ensure compliance and accountability (including annual reporting by each Department on the implementation of Inquiry recommendations and other action items within their jurisdictions). An annual Report to Parliament should be also be tabled on progress made and challenges outstanding in combating antisemitism in Canada, triggering a government response.

We commend the Government of Canada’s proposed initiative to open an office dedicated to Religious Freedom within the Department of Foreign Affairs. The efforts of this proposed office could enhance protections afforded to vulnerable religious minorities across the globe, including Jews at risk of being the victims of antisemitism.

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<sup>235</sup> This office would also monitor Canada’s compliance with international agreements and treaties dealing with the dissemination of hate (this office would be analogous to the Special Envoy to Monitor and Combat Antisemitism established by the US State Department’s Bureau of Democracy, Human Rights and Labor).

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---

Greetings, all.





Gail

Gail Sinclair

General Counsel / Avocate générale

Regulatory Law Division (Public Law)/

Direction du droit réglementaire (Droit public)

Department of Justice Canada/

Ministère de la Justice Canada

Ontario Regional Office / Bureau régional de l'Ontario

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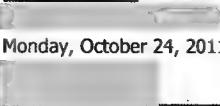
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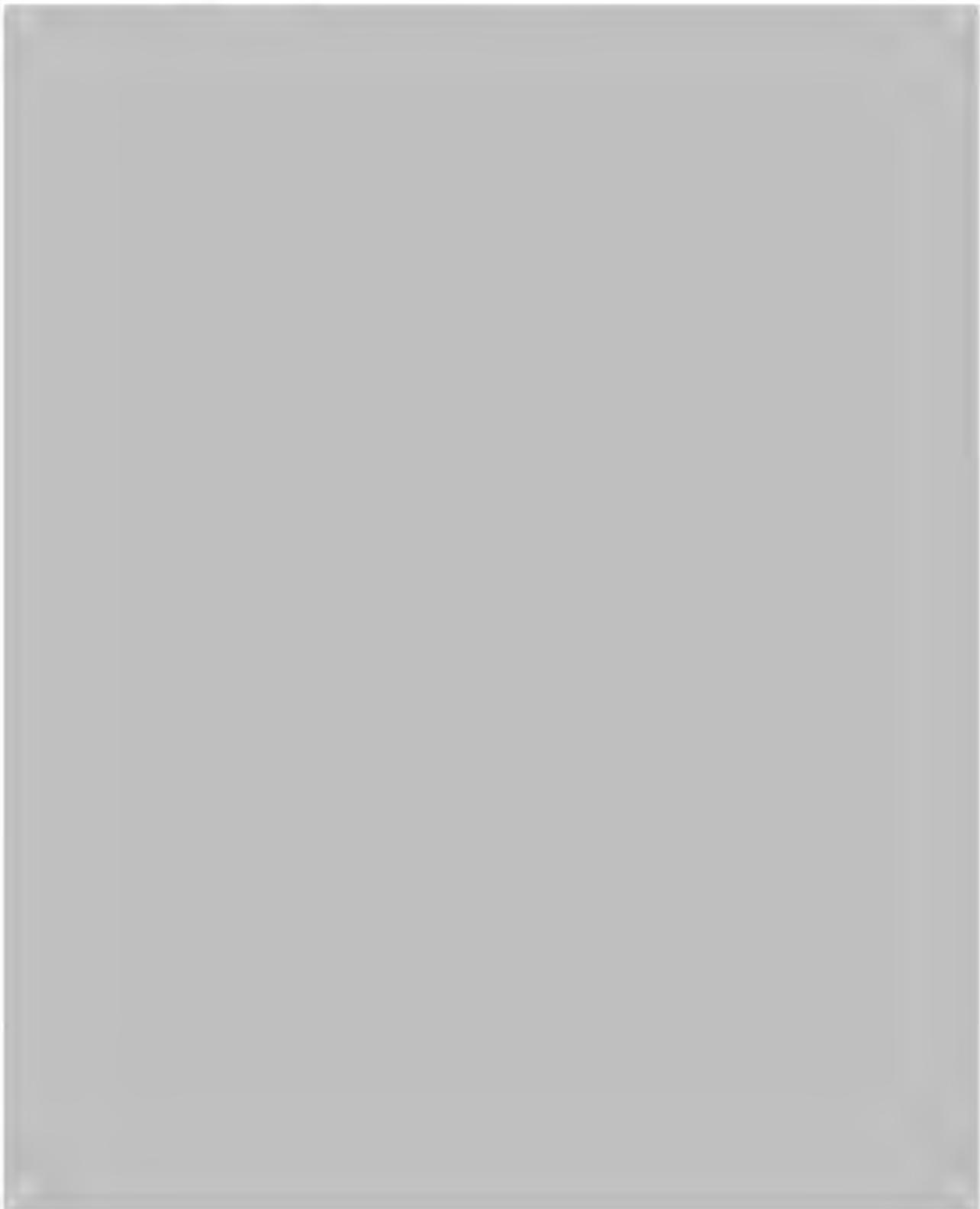
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nma

Nur Muhammed-Ally

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Thank you.

Nma

Nur Muhammed-Ally

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Thank you.

Nma

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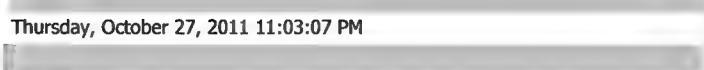
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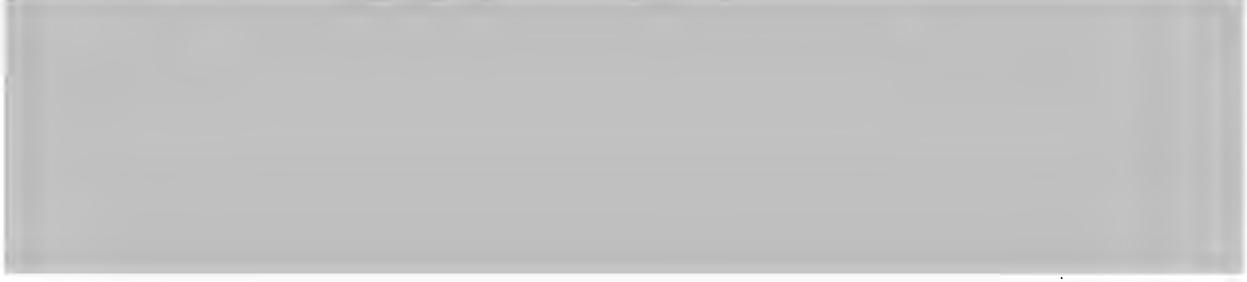
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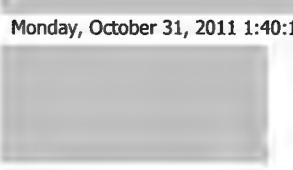
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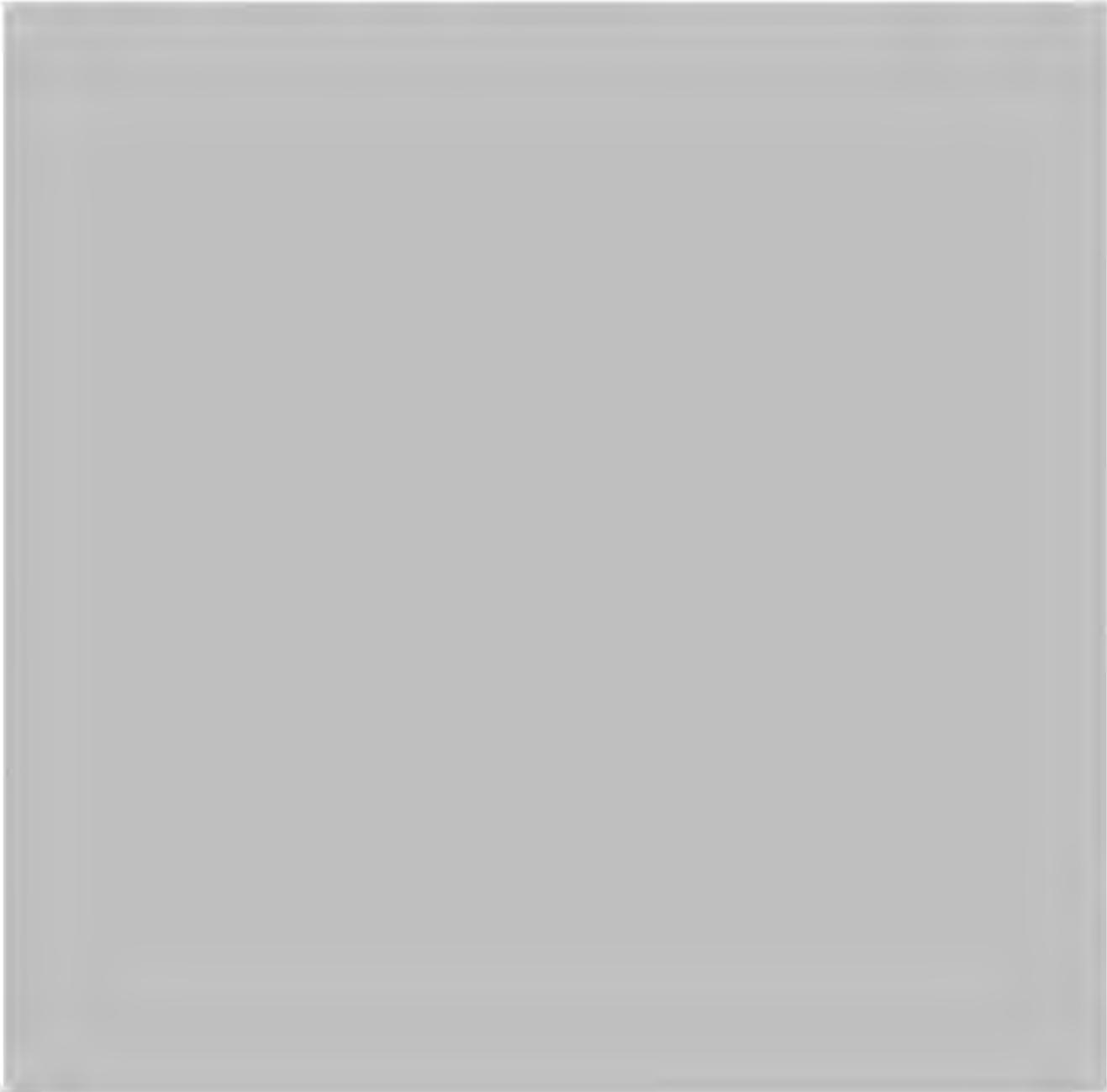
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Hi Andrew,



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Best regards,

**Eleanor Elstub**

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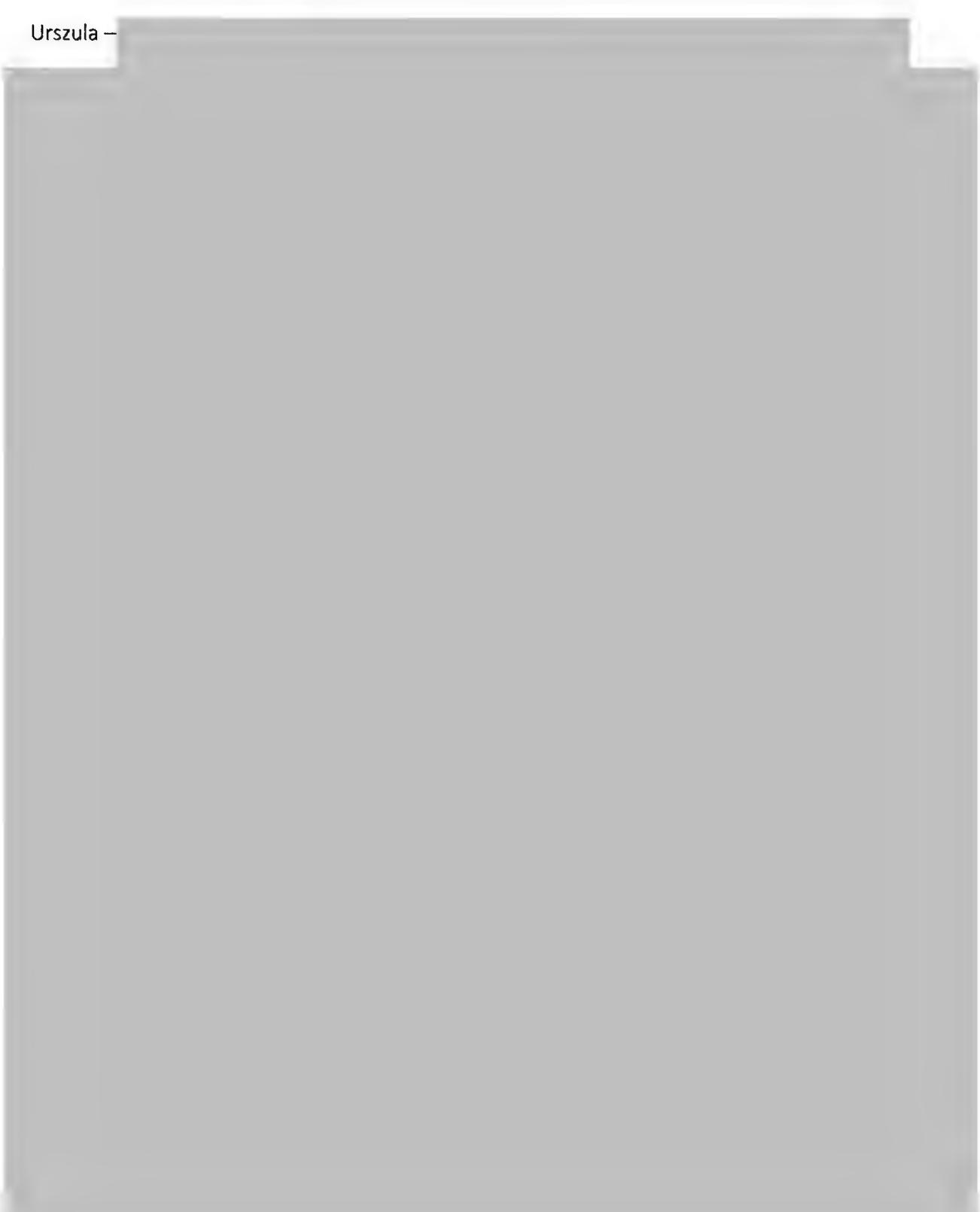
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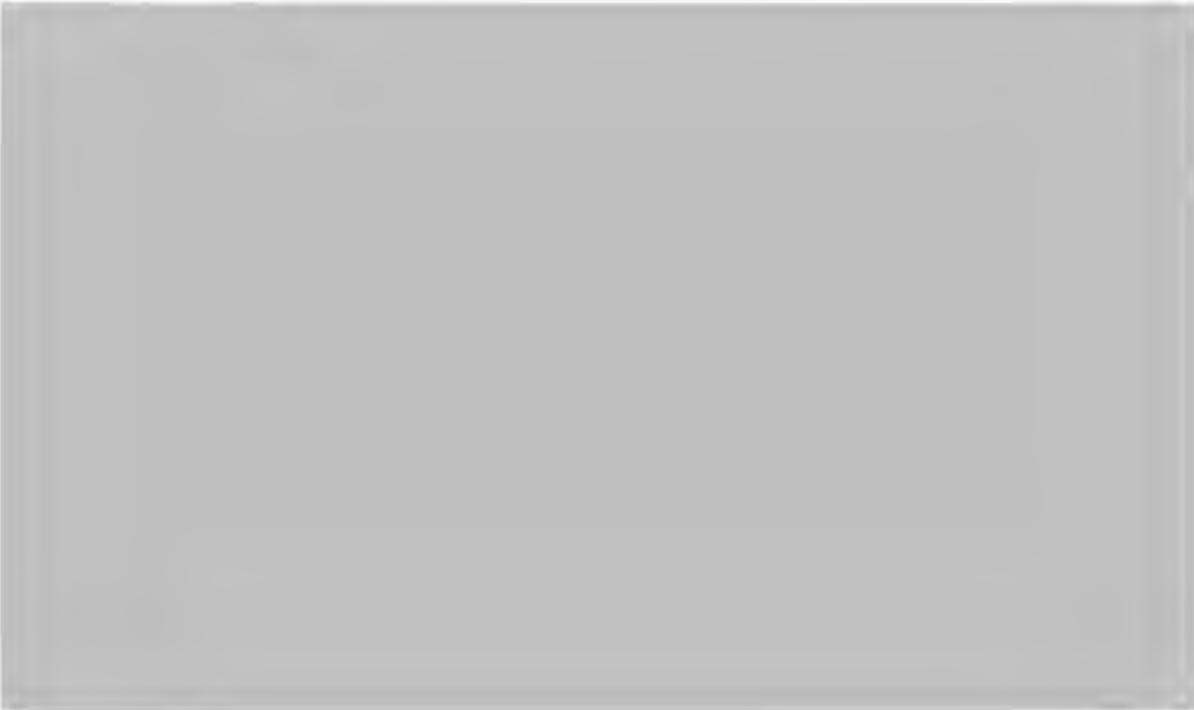


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Thank you.

Urszula

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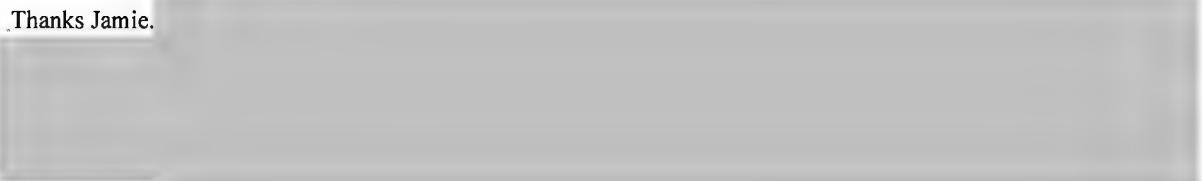
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Thanks Jamie.



nma

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To: Ministerial Correspondence Unit - Justice Canada; paul.dewar@parl.gc.ca; justin.trudeau@parl.gc.ca; Elizabeth.May@parl.gc.ca  
Subject: letter with over 400 signatures in support of changing extradition law and stopping the extradition of Hassan Diab  
Attachments: Letter regarding extradition law and the case of Hassan Diab.pdf

Attention:  
The Honourable Peter Gordon MacKay  
Minister of Justice and Attorney General of Canada  
284 Wellington Street  
Ottawa, Ontario K1A 0H8

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CC: Rt. Hon. Tom Mulcair, Rt. Hon. Justin Trudeau, Rt. Hon. Elizabeth May, Rt. Hon. Paul Dewar

Dear Mr. MacKay,

I am writing to you today to present a letter signed by over 400 concerned Canadians, including many leading Canadian and American intellectuals, condemning the state of Canadian extradition law and asking you to stop the extradition of Dr. Hassan Diab. Please see below and attached for the text of the letter as well as the signatories.

Yours most sincerely,

[REDACTED]

Letter regarding extradition law and the case of Hassan Diab:

In light of the case of Hassan Diab, a Canadian citizen under threat of extradition to France, we, the undersigned, call on the Federal Minister of Justice to substantially revise current Canadian extradition law. We further demand that the Federal Minister of Justice refuse the request from France that Dr. Hassan Diab be extradited, a refusal that ought to have been rendered six years ago when this nightmare began.

Canadian extradition law is a farce. Enacted in 1999 with little debate in Parliament, the act as it stands permits Canadian citizens to be extradited to requesting countries simply on the presumption that the evidence held by those countries is reliable. This presumption of reliability applies even to evidence that is inadmissible in Canadian courts. The requesting state only needs to provide a summary of its cherry-picked evidence and is under no obligation to disclose all of its case. At the same time, the bar that the requested person faces to challenge the evidence against them is so high that it is practically

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bsp;

**Letter regarding extradition law and the case of Hassan Diab:**

In light of the case of Hassan Diab, a Canadian citizen under threat of extradition to France, we, the undersigned, call on the Federal Minister of Justice to substantially revise current Canadian extradition law. We further demand that the Federal Minister of Justice refuse the request from France that Dr. Hassan Diab be extradited, a refusal that ought to have been rendered six years ago when this nightmare began. Canadian extradition law is a farce. Enacted in 1999 with little debate in Parliament, the act as it stands permits Canadian citizens to be extradited to requesting countries simply on the presumption that the evidence held by those countries is reliable. This presumption of reliability applies even to evidence that is inadmissible in Canadian courts. The requesting state only needs to provide a summary of its cherry-picked evidence and is under no obligation to disclose all of its case. At the same time, the bar that the requested person faces to challenge the evidence against them is so high that it is practically unattainable. Canadians facing extradition are also explicitly prohibited from introducing evidence pointing to their innocence. This is a patent case of guilty until proven innocent, and it goes against both the values of Canadians and the intent of the legal protections in place in Canada.

In the case of Dr. Diab, France has requested his extradition on the basis of a flimsy and discredited handwriting analysis report to face questioning regarding a 1980 bombing against a synagogue in Paris that killed four people. Dr. Diab has asserted his innocence since the beginning, and a wide community of supporters have stood beside him and confirmed his peaceful and law-abiding character throughout this case. Despite the fact that Justice Maranger of the Ontario Superior Court noted in his ruling that the French handwriting analysis being used as the basis of Dr. Diab's extradition is "very problematic," "convoluted, very confusing, with conclusions that are suspect," the judge asserted that his hands are tied with respect to extradition law: "An extradition hearing has its own specific rules of evidence, whereby evidence is admitted even if it would not be admitted under Canadian law." On this basis, Justice Maranger ordered Dr. Diab's extradition.

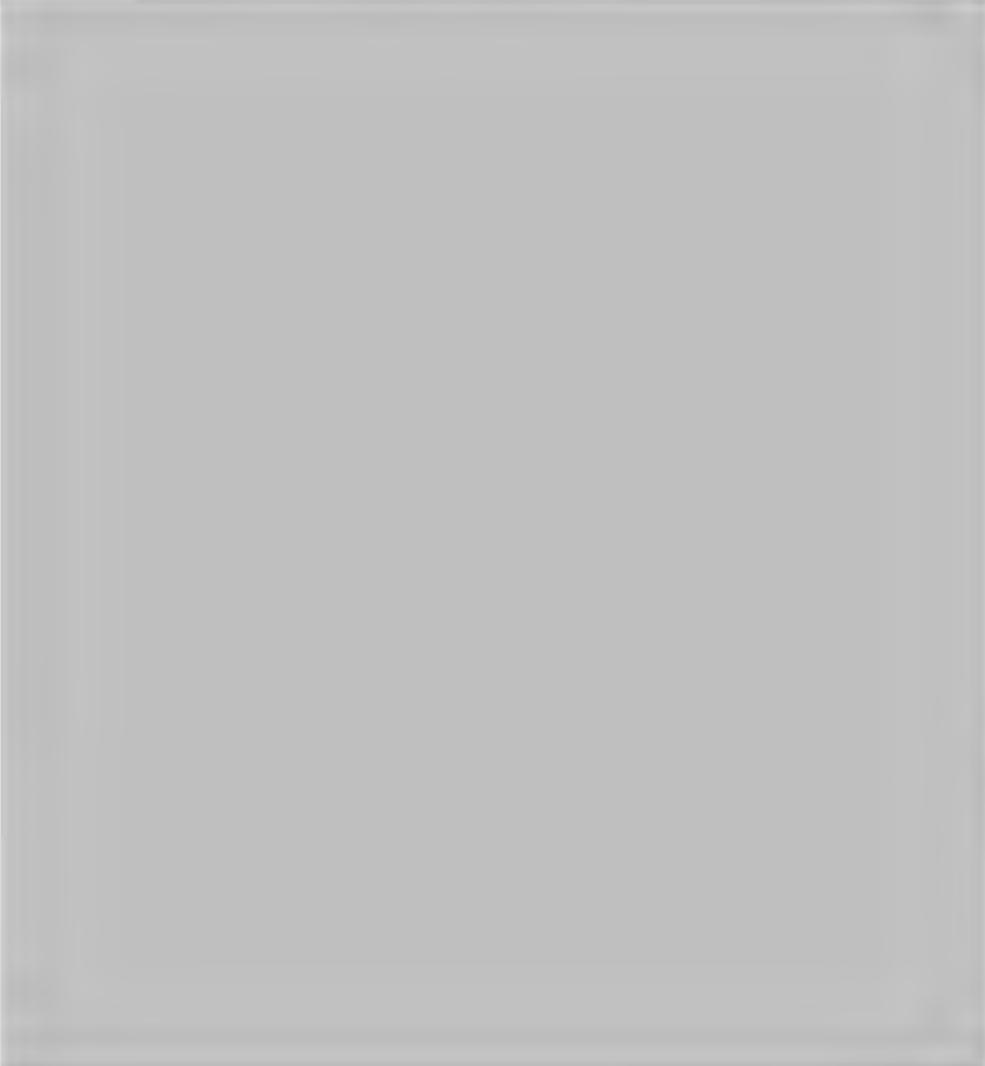
This is despite the fact that five internationally renowned handwriting experts testified that the French handwriting analysis report against Dr. Diab is fundamentally flawed, wholly unreliable and that the actual evidence points to Dr. Diab's innocence. Two previous handwriting reports that allegedly linked Dr. Diab to the suspect were completely disavowed after the defence showed that many of the writings that were "matched" to the suspect were not even written by Dr. Diab. Justice Maranger also ruled "whether I like it or not", the extradition law prevents Dr. Diab from introducing evidence produced by the RCMP showing that his palm and fingerprints do not match those of the suspect.

Since 2008, when Dr. Diab first learned that he was under suspicion, he and his family have been forced to spend hundreds of thousands of dollars in legal fees in addition to \$2000 a month on the GPS tracking anklet that is part of his bail conditions. They have been subject to significant hardships, including loss of income when Dr. Diab was refused work, and the constraints of being under curfew and unable to leave the city. These hardships have been incurred as a direct result of the problematic nature of Canada's extradition law, which has left an innocent man adrift in a legal nightmare that ought never to have begun.

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The current climate of fear about 'home-grown' terrorism and the threats of global terrorist groups such as ISIL ought not to cloud the question of justice. Permitting the extradition of Canadian citizens on the basis of flimsy and unreliable evidence is a clear contravention of Canadian values. The extradition law needs to change, and Dr. Hassan Diab needs to be released from the Kafkaesque nightmare in which he and his family have been enmeshed for six years now.

Signed (affiliations listed for identification purposes only):



**Pages 1843 to / à 1851  
are withheld pursuant to section  
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**of the Access to Information Act  
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**MCU / UCM****Ministerial Correspondence Unit / Unité de la correspondance ministérielle**  
**Routing Slip / Feuille de contrôle**

Document Date / Date du document: 2016-04-13  
 Date of Receipt / Reçu le: 2016-04-13

Author /  
 Auteur: [REDACTED]

National Steering Committee  
 Independent Jewish Voices Canada

[REDACTED]@ijvcanada.org

MCU # / # UCM: 2016-011870

Doc Type / Type de Doc: F

Subject / Sujet: 150012  
 Law - Extradition and Fugitive Offenders Act

Due Date / Date d'échéance:

Sector's Due Date / Date d'échéance du secteur:

Assigned To / Assigné à: NLS-IAG

Assigned Date / Assigné le: 2016-05-26

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**Comments / Remarques:**

Ref: F16-011000 to NLS-IAG, 2016-05-16

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Ministerial Correspondence Unit - Justice Canada

F16-011870

NES-IAC

150012

**From:** Wilson-Raybould, Jody - M.P. <Jody.Wilson-Raybould@parl.gc.ca>  
**Sent:** April-13-16 8:51 AM  
**To:** Ministerial Correspondence Unit - Justice Canada  
**Subject:** FW: Addressing the Unjust Treatment of Dr. Hassan Diab  
**Attachments:** [REDACTED]

Ref: F16-011800

to NES-IAC, 2016-0516

**From:** [REDACTED] @ijvcanada.org]  
**Sent:** April 13, 2016 8:27 AM  
**To:** Wilson-Raybould, Jody - M.P.; Dion, Stéphane - M.P.  
**Subject:** Addressing the Unjust Treatment of Dr. Hassan Diab

The Honourable Jody Wilson-Reybold, Minister of Justice

The Honourable Stéphane Dion, Minister of Foreign Affairs

Dear Ministers,

I am writing to you on behalf of the Steering Committee of the national human rights organization Independent Jewish Voices Canada. We wish to obtain your support in the pursuit of justice for Dr. Hassan Diab, a Canadian citizen unjustly imprisoned in France since November 2014.

At the extradition hearing in Canada in 2011, Justice Robert Maranger described the evidence against Dr. Diab as "very problematic," "convoluted," "very confusing" and "with conclusions that are suspect." He further noted that the case against Dr. Diab is "weak" and "the prospects of conviction in the context of a fair trial seem unlikely." Despite these admissions, Justice Maranger ruled that Dr. Diab be extradited to France due to the nature of Canada's out-dated Extradition Law.

We strongly believe that Dr. Diab had nothing to do with the 1980 Paris Synagogue bombing. The evidence presented in the Canadian courts actually exonerates Dr. Diab. His fingerprints and palm prints do not match those of the suspected bomber, and he does not match the physical description of the suspected bomber. The key evidence against Dr. Diab—a handwriting analysis report submitted by France—was discredited by the world's leading handwriting experts as entirely unreliable. A previously submitted handwriting analysis report contained samples that did not even belong to Dr. Diab, but rather, to his ex-wife.

Dr. Diab's French lawyer recently submitted applications to the Court in France requesting the removal of unsourced intelligence (which is a highly problematic source of evidence due to the very real possibility it was gleaned through torture) and the discredited handwriting analysis reports from the dossier. The French court denied Dr. Diab's applications. Allowing such information to remain in the dossier would deprive Dr. Diab of any effective recourse to justice. This should demonstrate to the Canadian government that France's legal system is not granting Dr. Diab a fair trial under due process of the law.

We therefore request that the Canadian government raise Dr. Diab's case with the French authorities at the earliest possible opportunity. We call for Dr. Diab's release as soon as possible, and that he be allowed to return to his family in Canada. Short of releasing Dr. Diab, at the very least, the deeply flawed

handwriting analysis reports and unsourced intelligence must be removed from the dossier in France, so Dr. Diab has a chance of receiving a fair legal process.

A more complete file on Dr. Diab's case is attached to this letter.

We are very concerned that, as Mr. Don Bayne, Dr. Diab's lawyer in Canada, has stated: "We now have the classic recipe for the wrongful conviction of a Canadian citizen."

As the Honourable Ministers responsible for this file, we expect that you will take the necessary steps to prevent this grave injustice from occurring.

The victims of the horrific 1980 Paris Synagogue deserve justice. Justice will not come from a wrongful conviction.

This is an opportunity for the Liberal government to clearly distance itself from the previous government by doing the right thing. Canada should not stay silent while France pushes for the conviction of a Canadian citizen based on unsourced intelligence (potentially derived from torture and whose sources are unknown to both the prosecution and the defence) and terribly flawed and discredited handwriting analysis reports. Why? Because it's 2016.

Please acknowledge receipt of this letter and advise us on what action you will take regarding this serious and unfortunate case.

Sincerely,

[REDACTED] on behalf of

National Steering Committee

Independent Jewish Voices Canada

[REDACTED]  
Independent Jewish Voices Canada / Voix juives indépendantes Canada

[www.ijvcanada.org](http://www.ijvcanada.org)

**Pages 1855 to / à 1885  
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Document Date / Date du document: 2016-04-28  
Date of Receipt / Reçu le: 2016-04-28

MCU # / # UCM: 2016-011000

Author / **Ms. Victoria Fuller**  
Auteur: Director, Consular Case Management  
Consular Operations Bureau  
Global Affairs Canada  
  
Ottawa ON K1A 0G2

Doc Type / Type de Doc: F

Subject / Sujet: 150012  
Law - Extradition and Fugitive Offenders Act

Due Date / Date d'échéance:

Sector's Due Date / Date d'échéance du secteur:

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Ottawa, Ontario  
K1A 0G2

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cc.

AVR 28 2016

National Steering Committee  
Independent Jewish Voices Canada

c.c.: [mcu@justice.gc.ca](mailto:mcu@justice.gc.ca)

Dear [REDACTED]

[REDACTED] could not find

Thank you for your correspondence of April 13, 2016, addressed to the Honourable Stéphane Dion, Minister of Foreign Affairs, and to the Honourable Jody Wilson-Raybould, Minister of Justice and Attorney General of Canada, regarding the extradition of Mr. Hassan Diab to France.

I trust that Minister Wilson-Raybould's office will address your concerns regarding the extradition of Mr. Diab to France, as extradition matters fall under her purview.

From a consular perspective, the *Privacy Act* limits what can be shared on Mr. Diab's current situation. The Guide for Canadians Imprisoned Abroad will, however, provide you with general information on the type of consular assistance provided to Canadian citizens detained abroad, such as Mr. Diab:

<http://travel.gc.ca/travelling/publications/guide-for-canadians-imprisoned-abroad>.

Sincerely,

[Signature]

Victoria Fuller  
Director, Consular Case Management  
Consular Operations Bureau

Canada

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## **Ministerial Correspondence Unit - Justice Canada**

**From:** JNOS.consular-correspondence@international.gc.ca  
**Sent:** April-28-16 11:45 AM  
**To:** [REDACTED]@ijvcanada.org  
**Cc:** Ministerial Correspondence Unit - Justice Canada  
**Subject:** Response from Global Affairs Canada - Réponse d'Affaires mondiales Canada  
**Attachments:** image2016-04-28-110005.pdf

(le français suivra)

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Dear Sir, Madam:

Please find below the response to your recent correspondence. A scanned copy of the signed letter is also attached.

Regards,

Senior Consular Correspondence Officer  
Global Affairs Canada

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Monsieur, Madame,

Veuillez trouver ci-dessous une réponse à votre correspondance récente, ainsi qu'une copie numérisée de la lettre signée ci-joint.

Meilleures salutations,

Agent principal de correspondance consulaire  
Affaires mondiales Canada

National Steering Committee  
Independent Jewish Voices Canada

c.c.: [mcu@justice.gc.ca](mailto:mcu@justice.gc.ca)

Dear [REDACTED]

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Sincerely,

Victoria Fuller  
Director, Consular Case Management  
Consular Operations Bureau